

LABOUR CODE
(CHANGES AND AMENDMENTS IN FORCE AS OF 01 JULY 2006)

Changes and amendments to the Labour Code were published in State Gazette # 48/13.06.2006 in force as of 01.07.2006.

Some of the important changes are summarized below.

I. Extending the Workers and Employees' Representation and Participation in the Consultations with the Employer

(1) Introducing a Wider Workers and Employees' Representation

New regulations concerning the election of workers and employees' representatives by the General Meeting of the workers and employees and providing for the number¹, election manner and mandate of the representatives have been adopted. The representatives are included in the category of persons who enjoy preliminary protection in case of dismissal under Art. 333 of the Labour Code. Workers and employees' representatives are bound to participate in the information exchange and consultations with the employer in the cases provided for by the law.

(2) Introducing Stricter Employer's Obligations for Providing Information and Consulting Workers and Employees Regarding the Employment Contract or the Employment Relationship Provisions; in case of Mass Dismissals; in case of Change of Employer and in case of Change in Company's Activities, Economic State and Work Organisation

The employer is obliged upon employee's request to provide an objective and just work record regarding his/her professional qualities and working activities results or a just recommendation in case of job application with another employer. The law sets forth the right of information of the employee seconded to another State with regard the secondment conditions.

Moreover, in case any of the abovementioned changes takes place the employer is obliged to provide the necessary information and carry out consultations with the trade union organisations and workers and employees' representatives when bound by law. The trade union organisations and workers and employees' representatives are entitled to alert the Labour Inspection for non-observation of the Labour legislation in case the employer does not fulfill his information and consultation obligations.

¹ The number of the workers and employees' representatives shall be as follows:

1. for enterprises with 50 up to 250 workers and employees – from 3 to 5;
2. for enterprises with more than 250 workers and employees – from 5 to 9;
3. for organizationally and economically independent departments – from 1 to 3.

II. Introducing Non-Discriminatory Measures Regarding Workers and Employees Employed under an Employment Contract for a Fixed term or for Working Part-Time

General provisions have been adopted in order to guarantee equal rights and obligations for workers employed under an employment contract for a fixed term or for working part-time and for those employed under a contract for an indefinite period and working full-time. In addition to the interdiction of the unfavourable treatment of workers employed under an employment contract for a fixed term or for working part-time the law binds the employers to provide timely information about the vacant jobs and positions in order to provide an opportunity for the employees for full-time work under a contract for an indefinite term.

III. Elaborating the Provisions regarding the Additional Work, Night Work, Open-Ended Working Hours and Summarized Calculation of the Working Hours

(1) Additional Work

In accordance with the amendments the maximum duration of the work time under an additional work employment contract added to the work time under the main employment contract cannot exceed 40 hours per week for persons under the age of 18 and 48 hours per week for the other employees. Workers and employees over the age of 18 can work more than 48 hours per week only after submitting their express consent in writing and only for a period of up to 4 months. The employer is obliged to keep record for all workers and employees who work more than 48 hours per week. The records should be at the disposal of the Labour Inspection.

(2) Night Work

In order to determine a person as a worker or employer performing night work, the duration of the night work included in the regular work time or in the work shifts should now be at least 3 hours (instead of 4 hours as previously stipulated). A new regulation has been added binding the employer to transfer the employee to a suitable day work or to reassign them in case a healthcare institution determines that the employee's health condition has deteriorated as a consequence of the night work performed.

(3) Open-Ended Working Hours

The provisions regarding open-ended working hours are set apart in a separate article. The employer is now obliged to approve until the end of January every calendar year of a list of all open-working hours positions. Moreover, the employees working under open-ended hours are entitled to an additional 15-minute rest after the elapse of the regular work time and to a total duration of the work time which does not affect the minimum rest between workdays and weekly rest.

(4) Summarized Calculation of the Working Hours

The maximum period for which the employer may establish summarized calculation of the working hours is increased from 4 to 6 months.

IV. Under aged employees Protection

The daily and weekly working time of under aged employees already comprises the time for obtaining and improving their professional qualification when this is carried out in the course of work.

V. Extending Labour Disputes Regulation

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Labour disputes now comprise the disputes between workers and employees' representatives and the employer as well as the disputes concerning ensuring minimum working conditions guaranteed to foreigners seconded to Bulgaria. The latter disputes fall under the jurisdiction of the court at employer's seat.

VI. Increase in the Amounts of the Fines in Case of Violations of Labour Legislation

All fines levied in cases of violations of the Labour legislation are significantly increased and a new violation has been introduced – breach of the employer's obligation to inform and consult the employees in case of mass dismissals, change of employer and changes in Company's activities, economic state and work organisation. The sanctions regarding employer and officials have been differentiated.

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