

10_Published Amending Bills to the Labour Code and the Social Security Code_GI[english]

The amending bills to the Labour Code and the Social Security Code were published on the website of the National Assembly on the 22 and 28 May 2015 respectively. The Amending Act to the Labour Code was promulgated in The State Gazette, No 54 of 17 July 2015, whereas the amendments to the Social Security Code were adopted at second reading by the National Assembly on 28 July 2015.

The major changes in the two Codes are as follows:

I. The Amending Act to the Labour Code

The Amending Act to the Labour Code introduces an explicit legal provision to regulate the conclusion of one-day labour contracts for short-term seasonal agricultural jobs assigned by a registered farmer. This type of labour contracts is applicable to occupations which do not require any special qualifications in the main business activity of crop-raising only for the cultivation of crops and the harvesting of fruit, vegetables, rose petals and lavender. There is a restriction on the number of such labour contracts which can be concluded with a single worker in the course of a calendar year, i.e. not more than 90 working days which are not added to the calculation of the qualifying period for social security purposes. The new provisions specify the mandatory elements of this type of labour contracts and state explicitly that the work time under such contracts is not recognized as eligible length of service. When these contracts are concluded, there is no requirement to notify the tax administration, to deliver a job description, or to issue an order on the termination of the labour contract upon the expiration of its term.

The amendments envisage the issuance of an ordinance by the Minister of Labour and Social Policy so that to establish the terms and conditions for the submission, registration and reporting of one-day labour contracts to the labour inspection offices and to introduce a standard form of the contract. They require the introduction of explicit provisions in the Social Security Code, in accordance with which workers who have signed a one-day labour contract will be insured only in the Pension Fund and the Labour Accidents and Occupational Diseases Fund, whereby the compensations for accidents at work and occupational diseases will be paid out for the duration of the inability to work but not more than 90 calendar days.

New provisions have been introduced on the employer's obligation to keep records for all workers and employees and to store all documents related to the occurrence, existence and termination of the labour relationship. They envisage the right of the worker or employee to receive certified copies of the documents kept in his or her labour file.

The Amending Act to the Labour Code has changed the provisions concerning the flexible working time. The objective is to enable the worker or employee to make up for unworked time on the following day or other days of the same working week beyond the time of the mandatory availability. The way in which flexible working time is reported is subject to the internal rules of the enterprise.

The amendments read that the time of the unpaid administrative or creative leave shall be recognized as eligible for the calculation of the length of service.

Further changes have been introduced in Article 164 of the Labour Code, providing for the right of a female worker or employee to use additional maternity leave for raising a child up to the age of two, where the child is not accommodated in a childcare establishment, after the end of the maternity leave for pregnancy, birth or adoption.

Article 165 of the Labour Code has been repealed as a result of the amendment to Article 164.

The amendments to Article 173(1) et seq. eliminate the employer's obligation to prepare a schedule for the use of the annual paid leave, as well as the worker's or employee's obligation to use this leave during the calendar year. Where the worker or employee has failed to use the leave for the relevant calendar year, the employer has the right to give this leave at his or her own initiative provided that the employer has invited the worker or employee to take the leave. The employer is no longer obligated to allow the use of the annual paid leave within the framework of the schedule since no schedule is drawn up. However, the employer has the obligation to provide conditions for the use of the annual paid leave during the calendar year, unless the leave has been postponed under Article 176, guaranteeing that the worker or employee can take at least a half of the annual paid leave.

The amended Article 176 contains an exhaustive list of the grounds for postponement of the

annual paid leave as follows: due to major production reasons or at the request of the worker or employee. In the latter case, the worker or employee has to take another type of leave or the employer has to agree to the postponement. The amendments obligate the employer to guarantee the use of the postponed leave within six months of the end of the calendar year for which the leave is due. Failing that, the worker or employee is entitled to make a choice of time for the use of the leave on his or her own, notifying the employer 14 days in advance.

The Amending Act to the Labour Code renders more specific the provisions of Article 192 of the Labour Code which, in their earlier wording, were not sufficiently clear as to which person could be selected by the employer as the person authorized to impose disciplinary penalties. The amendments specify that this person has to be an official performing managerial functions.

Article 277, requiring employers to draw up rules for healthy and safe conditions at work, has been repealed.

Article 327(12) provides opportunities for the worker or employee to terminate the labour relationship without serving a prior notice upon the acquisition of the right to retire on grounds of length of service and age. Article 328(10) provides a similar opportunity for the employer to dismiss the worker or employee by serving a prior notice upon the acquisition of the right to retire on grounds of length of service and age, adding it to the current wording which refers to employees at researcher positions.

A new administrative measure has been introduced so that the controlling authorities of the labour inspection offices are entitled to place a special sign in cases when they suspend the activities of enterprises, lines or sites, including construction and rehabilitation works, or stop machines, equipment and workplaces due to infringements of the rules for safe and healthy conditions at work, threatening the life and health of people. The unauthorized removal of the sign is subject to administrative sanctions.

II. The Amending Bill to the Social Security Code

The amending bill to the Social Security Code, which has been voted at second reading in Parliament, has established the retirement age at 63 years and 10 months for men and 60

years and 10 months for women with a qualifying period of 38 years and two months or 35 years and two months respectively. The bill envisages a gradual increase of the qualifying period and age required for retirement until the age of 65 is reached for both men and women and the qualifying period reaches 40 years for men and 37 years for women.

Early retirement one year prior to reaching the retirement age under Article 68(1) of the Social Security Code is possible.

The proposed amount of the early life pension is to be calculated according to the normal pension formula, whereby there is a reduction of 0.4 % for each month falling short of the requirements for age and qualifying period under Article 68(1), the maximum cut of the pension reaching up to 9.6 percent.

The maximum amount of the income on which social security payments are due is established at ten minimum wages.

The bill proposes also a change of the formula applied to the calculation of the pension. The share of each year of the qualifying period is increased from 1.1 % until it reaches 1.5 % and the increase after 31 December 2016 is to be specified in the annual law on the budget of the social security system. This proposal is in line with the commitments of Bulgaria which has ratified Convention No 102 of the International Labour Organisation on Social Security (Minimum Standards).

After 2016, the contribution to the Pension Fund is envisaged to increase by one percentage point as from 1 January 2017 and 1 January 2018. This proposal is substantiated with the shortfall in the budget of the national social security system and the need for transfers at the expense of taxes.

The law is intended to enter into force on 1 January 2016.