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INNOVATIONS IN CONTROL COMPLIANCE WITH THE LABOR LEGISLATION

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Abstract. *The need to amend the current Code of Labor Laws (adopted in 1971) is due to political and economic factors. The prepared draft of the Labor Code provides for five main innovations: all labor relations must be based on a contract; the employer has the right to dismiss the employee, but to notify him in advance; a flexible working day and remote work is provided; electronic workbooks were introduced and the State Register of Compulsory State Social Insurance was created (information on the employee's work experience will be entered); the mechanism of pre-trial settlement of labor disputes with the help of so-called "mediators" is prescribed. These innovations in labor law affect the method of control, and consequently the risks that need to be prevented.*

Key words: *flexible working day, contract, remote work, electronic labor book, mediators, labor legislation, working hours.*

Introduction.

Control of the provision of labor resources and their efficient use is an integral function of management and is central to the control system. The main way to protect the labor rights of workers, a guarantee of legality in labor relations are innovations in monitoring compliance with labor legislation. The importance of control over the use of hired labor by employers is due to the following factors: low level of legal culture among employers; the spread of informal employment (the use of labor is outside the influence of labor law); late or incomplete payment of wages, ignoring the law in the field of labor protection, illegal dismissal, etc.

Innovations in labor legislation in the updated Labor Code of Ukraine affect the method of control, and consequently the risk of compliance with the rules of the competent state and public authorities to verify compliance with labor legislation of employers in the management of hired labor, prevention and detection of offenses, bringing the guilty employees to justice.

The main text. For the legal regulation of social and labor relations in each country, the rules of conduct of employees of all enterprises, institutions, organizations, regardless of ownership, type of activity and industry, as well as persons working under employment contracts with individuals, based on regulatory legal acts. In the hierarchical structure of labor legislation, labor legislation consists of the Code of Labor Laws of Ukraine [7] and other legislation of Ukraine.

By legal force, the main act of labor legislation is the Constitution of Ukraine, ie all other acts of labor legislation must comply with it.



The second place in the structure of labor legislation of Ukraine is occupied by international labor agreements of Ukraine, which have been ratified in Ukraine.

Further in the structure of labor legislation of Ukraine is assigned to the hierarchy - the Labor Code of Ukraine, labor laws (adopted by the Verkhovna Rada of Ukraine on all issues of social and labor relations), resolutions of the Verkhovna Rada of Ukraine, decrees of the President of Ukraine. They must comply with the norms of the Constitution, international labor treaties of Ukraine and the laws of Ukraine. Next in the structure of labor legislation are regulations of the Cabinet of Ministers of Ukraine (resolutions and orders), laws of Ukraine, decrees of the President of Ukraine and resolutions of the Verkhovna Rada of Ukraine, regulations of the Ministry of Labor and Social Policy of Ukraine, ministries and other agencies. local state administrations and local governments, collective agreements.

Monitoring compliance with labor laws depends on the form of accounting (computer or manual).

The quantitative and qualitative composition of the personnel of the business entity depends on its size, structure and organization of production, specialization. The need for labor should be determined in terms of economic and social development or business plan. Control is carried out on the basis of primary documents on the number of employees, which are: employment order (t. F. № P-1), identity card (t. F. № P-2), alphabetical card (t. f. № P-3), order (instruction) on transfer to another job (t. f. № P-5), order (order) on granting leave (t. f. № P-6). Personnel records are kept in the personnel department. Realization of creative abilities to productive work occurs by concluding an employment contract.

The main document on the employee's employment is the employment record book. The procedure for keeping employment records is determined by the "Instruction on the procedure for maintaining employment records at enterprises, institutions and organizations" [1] and the Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine on Accounting for Employees in Electronic Form" [4]. According to Article 46, Ch. III of the Labor Code of Ukraine [7] accounting of employment of employees from June 10, 2021 is carried out in electronic form in the register of insured persons of the State Register of Compulsory State Social Insurance in the manner prescribed by the Law of Ukraine "On collection and accounting of single contribution "mandatory state social insurance" [6]. For each employee who is hired for the first time, the employment record book must be issued by the employer no later than five days after hiring. At the request of the employee, the owner or his authorized body is obliged to make entries in the employment record book. For part-time employees, employment records are kept only at the place of the main job, as well as transfers and dismissals, incentives and rewards for success in work. Accounting of labor activity in electronic form, allows not to draw up and not to keep paper workbooks.

The accounting of labor books in electronic form must be kept by the personnel department of the business entity in the Book of accounting forms of labor books and inserts to them (file №277), which are stored in the accounting department. Each employee is issued an identity card in the prescribed form, which is recorded on the basis of passport, employment record book (before the introduction of electronic),



military ID, diploma (certificate of graduation), orders of admission, transfer, dismissal and more. In addition to identity cards, personnel and engineering and technical staff, employees, materially responsible persons and researchers are also kept a personal personnel record card.

The movement of the personnel of the business entity is reflected by the inspector of the personnel department in a separate e-book. In the process of control, the presence of entries in electronic workbooks is selectively checked. In this case, there may be facts when the employment record is not available to the entity, and the employee is paid the full salary and surcharges. Attention is also drawn to the fact that instead of a paper employment record book there is a duplicate or insert, as a full-time employee may have an employee whose employment record book is in the business entity.

An important condition for the efficient use of labor resources is a reasonable rationing of labor and tariffs for workers and works. When checking the rationing, the existence of a calendar plan for the revision of labor standards is established, based on the zonal norms of production for certain types of work, taking into account the introduction of new technologies, mechanization and automation of production processes. The main indicators that characterize the level of labor rationing are the coefficients of technically sound standards and their implementation. The latter is detected by analyzing the data of primary documents: records of labor and work performed, records of tractor drivers, uniforms, etc. In addition, conduct surveys of contractors, as compliance with production standards does not always confirm their validity. In some cases, the implementation of inflated standards is achieved by reducing the quality of work, which negatively affects productivity and product quality. If necessary, conduct control observations, timing, photography of the working day. At the same time, they find out the reasons for non-compliance with production and maintenance standards, as well as their mass overfulfillment in large quantities.

The validity of tariffs for employees and certain types of work is checked on the basis of minutes of meetings of qualification (certification) commissions, tariff and qualification directories, identity cards, settlement and payment information, primary documents on labor accounting and payment, minutes of labor councils, orders (instructions) of the administration. In the presence of signals, statements about illegal actions on assignment of the highest ranks it is possible to organize control attestations of workplaces.

Check the composition of employees by specialties and qualifications, comparing these data with the plan, resulting in a shortage of employees in certain specialties (operators, drivers, accountants, etc.), find out what measures need to be taken to replenish staff.

The main indicator of the efficiency of labor resources is labor productivity. Therefore, in the process of control determine the level of implementation of the plan for labor productivity, analyze this indicator in the dynamics, find out the reasons for reducing its level, develop measures to increase productivity.

The basis for accounting for the use of working time of all categories of employees, control for compliance with the established mode of work, obtaining data



on hours worked, calculations with employees on wages, statistical reporting (f.1 PV "Labor Report") - is a timesheet working time (f. № P-5). According to the report, individuals and the list of provided services are controlled by family name in accordance with the primary accounting provided by the legislation.

Tabulation of individuals may be evidence of the existence of labor relations, and the absence - is a violation of labor law. In practical work, accounting of working time can be carried out: daily, weekly, monthly.

In the daily accounting of working time, the calculation must be made at the end of the working day in compliance with its regulatory duration. Daily accounting of working time is carried out taking into account the duration of the working week not more than 40 hours (according to Article 50, Chapter IV of the Labor Code of Ukraine [7]). project for certain categories of workers with their consent, set a shorter working hours. It is found out whether the working hours per week are observed for employees aged: 16-18 years and with harmful working conditions - 36 hours; 15-16 years (students 14-15 years) - 24 hours.

Each business entity, the chairman of the board together with the trade union representative, depending on the need, has a five-day or six-day working week. Compliance with the duration of working hours is monitored: for a five-day or six-day working week, respectively, 8 or 7 hours with a weekly rate of 40 hours; six-day working week 6 hours at a weekly rate of 36 hours and 4 hours at a weekly rate of 24 hours.

On the eve of holidays, non-working days and weekends, the length of the working day should be reduced by 1 hour.

If you need to work at night, pay attention to the deadline, which should be from 22.00 to 06.00 in the morning. To do this, it is necessary to take into account the ban on working at night: pregnant women, women with children under three years; persons under 18 years of age; other categories in accordance with the law.

In the process of control, attention is paid to compliance with the law when: establishing a part-time job; beginning and end of work; compliance with flexible working hours; performance of home and remote work; restrictions on overtime work; final accounting of working time.

Part-time work is established by agreement between the manager and the employee if necessary (pregnant women; women with a child with a disability under 14 years; care for a sick family member).

The beginning and end of work at the business entity is set in accordance with internal labor regulations and is observed by all employees. Flexible working hours are determined in accordance with the order of the head, provides for the employee to determine the start time, end time, duration of working hours during the working day, setting a fixed time for mandatory presence at work; break time for rest and food. This requires at least two months before the start of the established flexible mode, to organize a reliable and objective accounting of time worked and effective control over its use. The use of flexible working hours does not affect the rationing, the scope of labor rights of workers and wages. In case of violation of the flexible working hours, the employee may be transferred to the general working hours.



According to the amendments to the Labor Code of Ukraine [7], such concepts as "home work" and "remote work" were introduced. The control checks: whether the employee's place is determined (for example, his place of residence), fixed technical means (production and non-production funds required for the manufacture of products). An employment contract is concluded with the employee for the performance of home-based work, which allows to adhere to the state policy in labor relations. In the process of home-based work, the general mode of operation of the business entity is extended, the length of the working week may not exceed the established norms, rationing, wages and labor rights of employees remain unchanged. Employees who have used their tools must receive compensation for the tool. In a pandemic, an employment contract is not concluded, and the employee is enrolled on the basis of an order. The head of the business entity makes decisions on monitoring the implementation of the assigned work and ensuring reliable accounting of its implementation

Remote work involves the organization of work by an employee outside his premises by concluding an employment contract, using information and communication technologies. In the presence of harmful and dangerous production processes, the employment contract is not concluded. The employment contract for remote work provides: providing employees with: equipment; software and hardware; means of information protection; determination of the procedure and deadlines for submission of reports on the work performed.

In the presence of exceptional cases, the business entity is allowed to perform overtime work that is performed beyond the established length of the working day and with the permission of the trade union organization. At the same time, the legislation prohibits the involvement of employees in overtime work: pregnant women and women with children under 3 years; persons under 18 years of age. Overtime work must be carried out separately and for each employee they must not exceed 4 hours for two consecutive days and 120 hours per year. In the process of control, it is determined whether compensation was paid instead of overtime pay. This can happen if overtime exceeds the limit and the employer plans to save the payroll. Violation of the current labor legislation is also a distortion in the timesheet of the number of hours worked (actually worked more than the standard working hours, but the timesheets are set within the established norm). Accordingly, the hours worked in double amount are not paid, but compensated by a premium.

If necessary, as noted, (with continuous production) work is organized at night. There are cases when the hours worked by the employee during working hours are not indicated in full in the timesheet, as a result of which the legislation on wages is violated. Employees who are required by law to reduce working hours by one hour, respectively, and at night working hours are also reduced by one hour. The table does not show information about the employee who works for the entity, except for the main place of work and part-time. Such an employee must be entered in the payroll separately for the main place and part-time and draw up two employment contracts separately. In case of transfer of working days in accordance with the order, in the timesheet the transferred working day is indicated as a day off, and the day on which the work is transferred is indicated as a working day.



Before the control, in the process or after its completion, in addition to the previously stated rules, there may be risks in compliance with labor legislation (Table 1).

Table 1 - Risks in the process of labor activity of the employee [4]

Content of risks 1	Content of risks 2
Execution of an employment contract before the start of work, in compliance with the necessary details Determination of insurance record in the State Register of Compulsory State Social Insurance	Execution of the order on employment and employment record book in electronic (for insured persons of the State Register of Compulsory State Social Insurance) no later than five days after employment.
Execution of the order on employment and employment record book in electronic (for insured persons of the State Register of Compulsory State Social Insurance) no later than five days after employment	Timeliness of entering in the State Register of Compulsory State Social Insurance information on taking the Oath indicating the date of taking
Timeliness of entry in the employment record book kept by the employee, records of employment, transfer and dismissal, incentives and rewards for success in work insurance.	Execution of a court decision, no later than three days after receiving a copy of the convict's dismissal from the position he holds, or from the type of professional activity for which he is deprived of Confirmation of the right to land share (share) of Ukrainian citizens agricultural enterprise or a notarized extract from the State Register of Compulsory State Social Insurance.
Timeliness of entering in the State Register of Compulsory State Social Insurance of a member of a collective (other agricultural enterprise) Certificate of the right to inherit a land share (share) after the death of individuals.	The time of work in the farm of members of the farm and persons working under an employment contract (contract) is included in the insurance record according to the State Register of Compulsory State Social Insurance
Assignment (recalculation) of the pension is carried out at the request of the person or automatically (without the request of the person).	Assignment of old-age pension is carried out automatically (without a request) if the insured person acquires the right to receive an old-age pension upon reaching retirement age on the basis of information available in the personal accounting system, if the person has not expressed a desire to receive a pension later.

The listed risks of labor activity of workers should be warned if possible, in order to prevent them.

In practical work on each employee it is expedient to control observance of norms of working hours both during day, working week, and accordingly and month that promotes increase of labor discipline. It is necessary to use the following control methods:

- recording by the responsible person of the time of arrival and completion of work in the journal or in a separate statement and transfer to the responsible employee;
- control of the duration of work performed (rational use of working time);
- formation of reports on the use of working time by the employee independently;



- admission to the place of work is carried out on the basis of special cards, the contents of which are automatically transferred to the management;
- monitoring the working hours of the employee on the basis of cameras installed at the workplace;
- application of software for accounting of working time of the employee.

Generalization of monthly and quarterly information on the use of working time is carried out in the statistical form 1- PV "Labor Report".

Conclusion and conclusions.

In the process of preparing the article, the risks and innovations in accordance with labor legislation were considered: the use of working time in the application of hourly and piece rates for key employees and part-timers; overtime and night work and non-working and weekends before the holidays; establishment of flexible working hours, remote and home work.

The study indicates the feasibility of applying the possible risks of labor legislation, especially before the control. The expediency of such prevention contributes to the coordinated work of structural units of economic entities, and the optimization of the available working time is considered an important indicator of its success.

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Анотація. Необхідність внесення змін до діючого Кодексу законів про працю (ухвалений у 1971 році) обумовлено політичними і економічними факторами. В підготовленому проекті Кодексу законів про працю передбачено п'ять основних новацій: усі трудові відносини повинні відбуватися на підставі заключеного договору; роботодавець має право звільнити працівника, але попередньо його повідомити; передбачається гнучкий робочий день та виконання роботи дистанційно; введено електронні трудові книжки та створено Державний реєстр загальнообов'язкового державного соціального страхування (вноситиметься інформація про трудовий досвід працівника); прописано механізм досудового регулювання трудових спорів за допомогою так званих «медіаторів». Перелічені новації трудового законодавства впливають на методика проведення контролю, а відповідно і ризики, виникнення яких необхідно попередити.

Ключові слова: гнучкий робочий день, договір, дистанційна робота, електронна трудова книжка, медіатори, трудове законодавство, робочий час.

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