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Infoservis – Labour Code effective 1st January 2007

On January 1, 2007, the new Labour Code (hereinafter referred to as "***LC***") come into effect. We would like to take this opportunity to inform you of the most important changes introduced by the new LC.

THE MOST SIGNIFICANT CHANGES BROUGHT BY THE LC

A comprehensive legal regulation

From January 1, 2007, the LC exists as **a comprehensive set of legal regulations concerning labour law**. In this respect, it contains a new regulation of issues previously included in the act on wages and salaries and the act on travel disbursements. From some previous regulations, it also takes over the legal regulation concerning obstacles in work, leave, material provision for employees engaged in study programmes, release for the exercise of positions in unions, etc.

Commencement of an employment relation

An employment relation is established in the entrepreneurial sphere only on the basis of an employment contract. Employment relations of managers previously established by appointment will be considered, from the effective date of the new LC, as employment relations established on the basis of an employment contract. This effectively means that such a manager cannot, from 1 January 2007 onwards, be recalled from his or her office as previously, unless the employer and the employee apply the new provision of Section 73, subsection 2 of the LC, which provides for the possibility of concluding an agreement on the possible discharge from the position if it is agreed, at the same time, that the manager may resign to such a position. However, the original situation, under which a recall from office does not terminate an employment relation but merely the exercise of a managerial position, has not been changed.

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Termination of an employment relation

A) work discipline: the reason for giving a notice of termination pursuant to Section 52, subsection g) consists of "**a breach of some duty arising from statutory provisions and relating to the work performed**" instead of "a breach of work discipline" used previously.
B) period of notice: This is unified to be two months for both employers and employees. However, the parties may agree on a longer period of notice.
C) duty of offer: the employer's former 'duty of offer' in connection with the termination of employment relations at the employer's request has now been **cancelled**. Previously, an employer could give the notice of termination to an employee (for reasons other than instant dismissal or breach of work discipline) only if the employer had no opportunity to provide employment to the employee in the location agreed as the place of work or in the place of his residence or if the employee turned down an offer of some other suitable work.

Severance pay

An employee has the right to receive **severance pay in the amount of at least three times the average salary** in the event of a termination of employment **due to organisational changes** (this is the minimum amount of severance pay; it can be agreed in a higher amount). An employee has the right to receive **severance pay in the amount of at least twelve times the average salary** in the event that the employee terminates employment **due to health reasons** resulting from an industrial accident, industrial illness or the danger of such illness.

Accessory employment relations

Main employment and accessory employment are no longer distinguished. Employment relations are thus, regardless of whether they are agreed for a specified weekly working hours or not, considered in the same way. The protection of previous accessory employment relations has thus been extended mainly in connection with the termination of employment. Previously, it was possible to terminate an accessory employment without any reason by giving a notice of termination with the period of notice of fifteen days.

Account of working hours

The LC introduces a new institute – the account of working hours. This institute should **help employers to react flexibly to the changing need for work in relation to the demand for their products.** (The account of working hours could thus be applied e.g. in construction, agriculture, etc.) The employer regulates an employee's working hours according to current needs; consequently, the employee will work more in some part of the year and less in another. However, the total sum of all hours for which work has been done must be retained. This means that corresponding files need to be kept. In the event of termination of employment (prior to the end of the settlement period), the salary has to be settled. The protection of employees is ensured by **the obligation on the part of employers to pay to their employees at least 80 per cent of their average salary throughout the period when less work is needed.**

Overtime work

The LC has cancelled the possibility of setting an employee's salary with view to hours of overtime work. The employer is obliged to pay for every hour of overtime. **Unlike the previous regulation, the LC thus does not permit an agreement on a salary with respect to overtime work.** The employer may order the employee to do up to 150 hours of overtime work per year. This limit may be, by concluding an agreement with the employee, increased up to 208 hours (or 416 hours in the case of employers with trade unions) per year. The overall extent may not, however, exceed the average of 8 hours a week within a period of no more than 26 (or 52) weeks. The LC entirely bans overtime work for minors under 18 years of age.

Compensatory wage

The new LC has cancelled the possibility of the court to reduce a compensatory wage in the event of a void termination of employment. **From now on, the employer will be obliged, in the event of a void termination of employment, to provide the employee with a compensatory wage for the entire period of the existence of his or her employment relation** (including the period when the employee actually does not work and the court proceedings about the determination of the invalidity of the termination of employment are in progress). Previously, the employer was obliged to provide a compensatory wage for the

period of six months, having thereafter the possibility to request a court to reasonably decrease such a compensatory wage or deny it. Under the LC, the court may not decrease or deny a compensatory wage.

Standby

Previously, an employee could, in addition to his or her working hours, perform up to 400 hours of standby in the workplace. From now on, standby is considered to be constituted only by those cases when **an employee is in the state of readiness to perform work at an agreed place other than the workplace** (e.g. a doctor waiting 'on the phone'). An employee is entitled to 10 per cent of his or her average earnings for the period of standby.

Agreements on work performed outside an employment relation

Under the previous Labour Code, agreements on work performance and agreements on working activity could be concluded in the event of work whose regular performance could not be secured by the employer within a schedule of working hours or whose performance within the framework of an employment relation would be purposeless or uneconomical for the employer. **These limiting conditions have been excluded from the new LC**.

Another significant change concerning the agreements on work performance consists in the increase of the limit for this work from the original 100 hours to the current **150 hours in a given calendar year**.

Agreements on working activity have retained the condition that the working hours may not exceed one half of weekly working hours. However, the exception has been cancelled under which agreements on work performance enabled the performance of work up to the set weekly working hours for the period of three months e.g. during an increased need for work on the part of the employer (the Government Decree No. 108/1994 Sb., which provided for this exception, was repealed by the new Labour Code).

Employer's liability for Employee's things

From now on, the employer is liable for employee's things which are not commonly taken to work (valuables, etc.) and which have been left within the employer's premises **up to the**

amount of CZK 10,000; previously, the liability was limited to CZK 5,000. There has been no change in the employee's unlimited liability for employee's things which are commonly taken to work (shoes, clothing).

Minors

Minors under the age of 18 may work no longer than 30 hours a week.

Annual leave

The LC provides for only three kinds of annual leave. From among the original kinds of annual leave, the so-called 'additional leave' has been cancelled.

From now on, employers – entrepreneurs may **increase** the standard length of annual leave of 4 weeks in whatever way, even differently for various groups of employees, as long as they meet certain specified conditions. The employer, however, has to respect equal treatment requirements.

An employee should take the number of days of leave available in a given calendar year. Under the new Labour Code, an employee may be compensated for leave not taken only in the event of a termination of employment. In other cases, an employee must take the leave no later than 31 October of the following calendar year.

Employees' material liability

There is a minor change introduced by the LC: previous "agreements on material liability" are henceforth referred to as "**agreements on liability**". This concerns employees' liability for valuable things entrusted into their care.

It is recommended, with view to the above-mentioned overview of the most significant changes of industrial relations, that you review your documents related to this issue.