



October 2011

Labour Code 2012

On 1 January 2012, amendments to the Labour Code and related acts will most like come into effect. The respective bills were approved by the Chamber of Deputies on 9 September 2011 but were rejected by the Senate at its 12th meeting on 7 October 2011. However, one can assume that the Chamber of Deputies will override the Senate's veto and the new legislation will be adopted.

From the most important changes introduced by the new legislation we choose the following:

1. Trial Period of Managerial Employees

The possibility to agree with managerial employees on a trial period of 6 consecutive months is newly introduced. In relation to other employees, the possibility to agree on trial period of 3 consecutive months from the date of commencement of the employment law relationship still remains, however, a new limitation was introduced under which this agreed trial period may not exceed one half of the agreed term of the employment law relationship. Consequently, in the employment law relationships for a fixed term shorter than six months the trial period must be shortened appropriately.

2. Employment Law Relationship for Fixed Term

Employer and the employee may newly agree on an employment law relationship for a fixed term not exceeding 3 years (currently, the maximum term is 2 years) but it will be possible to prolong it only twice. It will be therefore for example allowed to consecutively conclude 3 one-year employment contracts. As a result of prolongation of the maximum period for which a fixed term employment regulation can be concluded, some exemptions lose their justification and will be therefore abolished (e.g. replacement for temporarily absent employees, this exemption was used in the case of employment law relationship concluded as replacement for women on maternity or parental leave).

3. Salary and Compensation for Overtime Work

Possibility to negotiate the salaries of all employees with regard to possible overtime work is newly introduced again (currently, this possibility exists only in relation to the managerial employees). The scope of overtime work which will be taken into account in connection with the negotiated salary must be clearly stated in the contract. The employee will be then

entitled to no additional salary, extra pay or compensatory time off for the overtime work in this scope. In relation to managerial employees, all overtime work can be included in the agreed salary; in relation to other employees, the overtime work in the scope of 150 hours per calendar year at the most.

4. Agreement to Complete a Job

Under the agreement to complete a job, it will be possible to work up to 300 hours within a calendar year for one employer (currently, the limit is 150 hours). The income under the agreement to complete a job is exempted from social security and health insurance payments; under the new legislation, the exemption will not apply if employee's income under such agreement exceeds CZK 10,000 per month. The performance of work under an agreement to complete a job may not exceed 12 hours within 24 consecutive hours.

5. Severance pay

In case of notice of termination given by employer on the grounds of its dissolution or relocation or because of an organizational change, the employee is entitled to a severance pay. Until now, the severance pay has equalled to at least three times the average monthly earnings. Newly, the minimum amount of severance pay is related to the length of the period for which the employment law relationship has lasted. If it has lasted less than 1 year, the severance pay equals to average monthly earnings; if it has lasted 1 - 2 years, the severance pay equals to two times the average monthly earnings, if it has lasted longer than 2 years, the severance pay equals to three times the average monthly earnings. An employee who has immediately terminated the employment law relationship will be no longer entitled to the severance pay but to a compensation of salary for the period equal to the notice period (i.e., at least for two months).

6. Temporary assignment of an employee

Until now, only the employment agencies possessing a license from the Ministry of Labour and Social Affairs have been entitled to assign an employee to a different employer. The new legislation enables all employers to assign their employees. Only an employee whose employment law relationship has lasted longer than 6 months can be assigned. The working and payment conditions of such employee may not be worse than the conditions of a comparable employee of the receiving employer.

7. Non-competition clause

The non-competition clause includes also obligation of the employer to provide the employee with an appropriate consideration in money for each month the employee is fulfilling the obligation not to complete. The new legislation introduces change of the amount of such appropriate consideration in money from one times the average monthly earnings of the employee to half times the average monthly earnings of the employee. The non-competition clause can be newly agreed also prior to the expiry of the trial period.

8. Working hours

Under the new legislation, duration of a shift may not exceed 12 hours, regardless of the manner of distribution of the working hours. This is a difference to the current regulation, under which a shift may not exceed 9 hours in case of even distribution of working hours. In addition, the records of work performed have to newly contain also the start and the end of the recorded data. Instead of information on “performed working hours”, the information on “performed shift” has to be recorded.

9. New ground for notice

An employee may be newly given a notice of termination of his/her employment law relationship provided that the employee, in the period of the first 21 calendar days of temporary unfitness to work, in an especially gross manner breaches the obligation to comply with the set regime of an insured person who is temporarily unfit to work (duties to stay at the place of residence and to comply with the time and scope of permitted absence from home).