

GUIDE FOR THE POSTING OF WORKERS IN THE FRAMEWORK OF THE PROVISIONS OF SERVICES LAW OF 2017 and 2020 AND REGULATIONS 2017

This Guide was prepared by the Department of Labour of the Ministry of Labour and Social Insurance regarding the applicable legislation and in particular The Posting of Workers in the Framework of the Provisions of Services Law of 2017 (N.63(I)/2017) and 2020 (N.158(I)/2020) and Regulations of 2017 (Κ.Δ.Π 196/2017). The Legislation is fully harmonized with the Directives 96/71/EC, 2014/67/EU and 2018/957/EU. This Guide provides general information only and should not be considered as complete and authentic interpretation of the provisions of the Law. More details are provided by the relevant department of the Ministry of Labour and Social Insurance.

Purpose

The purpose of the above Law is (a) the enactment of appropriate measures, provisions and monitoring mechanisms for the posting of workers in the framework of the provision of services including the imposing of sanctions and (b) to guarantee respect for an appropriate level of protection of the rights of posted workers for the cross-border provision of services in particular the enforcement of the terms and conditions of employment which provided in the section 7 of the relevant Law.

Application

According to section 4 of the Law No 63(I) of 2017 on the posting of workers in the framework of the provision of services in the EU, the Law applies to undertakings which take one of the following transnational measures:

- a) Post a worker, on their account and under their direction, in the territory of Cyprus, under a contract concluded between the undertaking making the posting and the receiver of the services operating in Cyprus, provided there is an employment relationship between the sending undertaking and the worker, during the period of posting.
- b) Post a worker, in the territory of Cyprus, to an establishment or to an undertaking owned by the group to which the undertaking making the posting is a member, provided there is an employment relationship between the sending undertaking and the worker, during the period of posting.
- c) Act as a Temporary Employment Undertaking or placement agency to hire out a worker to a user undertaking established or operating in the territory of Cyprus provided there is an employment relationship between the temporary

employment undertaking or the placement agency and the worker, during the period of posting. In case of chain posting the worker is considered as being posted by the temporary agency with which the worker has the employment relationship and the temporary agency must therefore comply with all the provisions of the said Law.

Exception

The Law does not apply to merchant shipping companies in respect of workers on seagoing vessels.

Cumulative duration of the posting periods of the individual posted workers

Where an undertaking as referred to section 4 of the Law replaces a posted worker by another posted worker performing the same task at the same place (is examined taking into consideration, inter alia, the nature of the service to be provided, the work to be performed and the address(es) of the workplace) , the duration of the posting shall, be cumulative duration of the posting periods of the individual posted workers concerned.

Terms of Employment

The Undertakings which are referred to section 4 of the relevant law guarantee workers posted in the territory of Cyprus the terms of employment which are provided by Cyprus law and/ or by collective agreement. Regarding collective agreement insofar as they concern the activities referred to in the Annex of the Law.

The terms of employment which the undertakings must provide to the posted workers according to the section 7, refer to:

- Remuneration (including minimum wage and overtime rates) this point does not apply to supplementary occupational retirement pension schemes;
- Annual leaves
- Work periods
- Health, safety and hygiene at work
- Protection of children, young persons and pregnant women at work
- Equality and non- discrimination
- The conditions of workers' accommodation where provided by the employer to workers away from their regular place of work;
- Allowances or reimbursement of expenditure to cover travel, board and lodging expenses for workers away from home for professional reasons. This shall apply exclusively to travel, board and lodging expenditure incurred by posted workers where they are required to travel to and from their regular place of work in the territory of Cyprus to whose territory they

are posted, or where they are temporarily sent by their employer from that regular place of work to another place of work.

Long Term posting

Where the effective duration of a posting exceeds 12 months in the territory of Cyprus, the undertakings provided for in section 4 of the Law continue to guarantee to the posted workers in the territory of the Republic all the applicable working and employment conditions laid down in the territory of the Republic in which the work is provided/performed as provided for in subsection (1) of section 7, irrespective of which law applies to the employment relationship and according to principle of equal treatment.

This does not apply to the following matters:

- (a) procedures, formalities and conditions of the conclusion and termination of the employment contract, including non-competition clauses;
- (b) supplementary occupational retirement pension schemes.

Where the service provider extends the effective duration of a posting to 18 months shall submit to the competent authority a motivated notification.

Administrative measures to monitor the application of the Law

For the effective application of the law there is obligation for the service provider (undertaking according to section 4) before the commencement/beginning of the provision of services to submit to the Department of Labour (competent authority) the following documents (via email, fax or by post office) in Greek or in English.

1. Written statement with the following information:
 - (i) Name of the undertaking, its head office address and its legal status
 - (ii) Name of the legal representative and the representative in the territory of Cyprus if such a representative exists
 - (iii) Address where posted workers will provide services and name, address and legal status of the undertakings receiving the services
 - (iv) Date of starting posting and the possible duration
 - (v) Nature of economic activity
2. List of Posted Workers (full name, passport no, occupation)
3. Name of the liaison person with the competent authorities in the Republic of Cyprus (regulation 6(2))
4. Name of the contact person acting as representative in case which is necessary for collective bargaining during the posting in the Republic of Cyprus (regulation 6(3)).

It is noted that in case of any change in the above information, the undertakings are obliged to submit an additional statement, as the case may be, within 15 days of the change.

Appointment of inspectors for monitoring the application of the relevant law

The Minister of Labour , Welfare and Social Insurance according to the section 22 of the relevant Law may appoint inspectors for the effective monitoring/control of the application of the Law. The role and their powers /duties are provided in the Law.

Administrative and Criminal Sanctions

Where the competent authority or according to the previous paragraph through the inspectors find out infringement of the provisions of the said law, three governmental member committee according to section 30(2) may impose administrative fine of up to €10.000 euro. In case of repetition it may impose administrative fine of up to €20.000 euro.

Moreover according to section 34, any person infringes or fails to comply with the provisions of the said law is guilty of an offense and in case where is convicted is liable to imprisonment not exceeding two year or to a fine not exceeding €50.000 or both of these sanctions.

Mutual assistance through the IMI system

The competent authorities through the IMI system shall work in close cooperation and provide each other with mutual assistance without undue delay in replying to reasoned requests for information and etc according to section 17 of the Law.

Information

Information on legislation can be obtained from the website of the Department of Labour (www.mlsi.gov.cy / dl) or please contact the Department of Labour:

Tel: 22400869

Fax:22400809