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Infoservis – Technical amendment to the Labour Code effective 1st January 2008

On January 1, 2008 Act No. 362/2007, amending Act No. 262/2006 Coll., Labour Code (hereinafter referred to as the "***Technical Amendment***" or "***Amendment***"), took effect.

The Technical Amendment was primarily designed to dispatch the inconsistency of the Labour Code with other acts, to rectify legislative-technical errors and certain inaccuracies (that is why it is referred to as "technical"). At the same time it brings a few substantial changes, which we would like to introduce you by this edition of Infoservice.

TRIAL PERIOD

With effect from July 1, 2008 the Amendment substitutes the legal regulation according to which the trial period commenced on the day following the day of formation of employment relationship. According to the Amendment the trial period commences on the first day.

SEVERANCE PAY

Until December 31, 2007, the employers were obliged to pay a severance pay to an employee in an amount of twelve times the employee's average earnings in case of employment relationship termination due to an industrial injury or an occupational (industrial) disease, regardless of whether the employee caused the injury himself or not. According to the Amendment, the employee shall not be entitled to the severance pay in case the employer exempts himself from the liability for the injury or the occupational disease (Section 67 (1) of the Labour Code - hereinafter referred to as „***LC***")

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OVERTIME WORK

According to the Technical Amendment there is an opportunity to stipulate for a salary with respect to the overtime work within the range of 150 hours per year. However, such possibility exists only as regards the management staff (managerial employees).

The management staff of an employer are those employees who, at individual management levels, are authorized to determine and give tasks to subordinate employees, to organize, manage and supervise subordinate employees´ work and to give them binding instructions for this purpose.

Until December 31, 2007, the employers were not entitled to employ an employee taking care of children up to the age of 1 year for overtime work. Since January 1, 2008 such possibility exists, provided that the employees taking care of children up to the age of 1 year agree with the overtime work (Section 241 (3) of the Labour Code).

WEEKLY WORKING HOURS

Weekly working hours of juvenile employees are newly equal to weekly working hours of other employees´. The juvenile thus can work for more than 30 hours per week (Section 79 of LC). However, the weekly working hours of juvenile shall not exceed 40 hours a week and concurrently they shall not work for more than 8 hours a day (new Section 79a of LC). This implies that it is not possible to order juvenile an overtime work, provided that an employment relationship of 40 hours a week and 8 hours a day is agreed (overtime work can therefore be ordered only where shorter weekly hours are agreed or in multi-shift operations).

ACCOUNT OF WORKING HOURS

In comparison to the previous regulation, the employer is not obliged to obtain consent from each employee to introduce an account of working hours. Nevertheless, it is no more possible to change the schedule of an account of working hours one week in advance, as the case has been so far, but at minimum of four weeks in advance (Section 84 and 84a of LC).

PREMIUMS

In a collective bargaining agreement it is newly possible to stipulate for different amount and manner of determination of premium for night work and work on Saturdays and Sundays. Should the old wording of the Labour Code provide that the premiums form at least 10% of the employee's average salary, the new regulation enables to agree on e.g. lower or higher amount or on fix rate (not percentual) for all employees (sections 116 and 118) in a collective bargaining agreement.

ADDITIONAL SALARY FOR PERFORMANCE OF ALTERNATIVE WORK

The Amendment limits the cases when the employer is obliged to provide an additional payment up to the employee's average earnings due to the transfer of the employee to work other than agreed. The employee is now entitled to additional payment only in case of transfer due to threat of occupational disease or accomplishment of maximum acceptable exposure, infectious disease, extraordinary or natural events, dead time or work interruption caused by unfavourable weather (Section 42 (1) of LC).

Furthermore the Amendment nullifies the obligation of a new employer to provide the employee an additional payment in case of the employment termination by the previous employer due to an occupational disease or industrial injury and where the previous employer could not provide the employee with other suitable work (Section 139 (2) of LC).