

## **Protection of Workers who are posted to carry out temporary work within the Republic in accordance with the framework of the Transnational Provision of Services 2002 Law, No 137(I)/2002**

### **Scope**

- The Law shall apply to undertakings established in a Member State, which posts workers within the framework of the transnational provision of services,. These undertakings take one of the following transnational measures:

(a) Workers posted to the territory of the Republic on their account, under their direction, under a contract concluded between the undertaking making the posting and the party for which the services are intended and which operates in the Republic. There must exist an employment relationship between the undertaking making the posting and the worker during the period of posting. Or

(b) Workers posted to an establishment or to an undertaking owned by the group in the territory of the Republic. There must exist an employment relationship between the undertaking making the posting and the worker during the period of posting. Or

(c) As a temporary employment undertaking or placement agency, hire out a worker to a user undertaking established or operating in the territory of the Republic. There must exist an employment relationship between the temporary employment undertaking or placement agency and the worker during the period of posting (Section 3).

The Law shall not apply to merchant navy undertakings as regards seagoing personnel (Section 3)

### **Definitions**

"Competent authority" means the Minister of Labour and Social Insurance (Section 2).

"Member State" means Member State of the European Union or a State which signed the Treaty of the European Economic Area and which is not a member of the European Union (Section 2).

"Posted worker" means a worker who usually works in a Member State and who is posted to the Republic according to subsection 2, Section 3 of the Law, to carry out work for a limited period.(Section 2).

### **Protection of Posted Workers**

- Undertakings are obliged to guarantee workers posted the minimum terms and conditions of work and employment, as set by legislative, regulative or administrative provisions or/and collective agreements regarding the activities referred to in the Annex (Section 4). These activities include excavation, earthmoving, actual building work etc.

- The terms and conditions of work and employment include among others minimum rates of pay, annual paid holidays, protection of health, safety and hygiene at work, equal treatment between men and women etc (Section 4).

- The minimum paid annual holiday and minimum wages shall not apply in the case of initial assembly and/or first installation of goods where this is an integral part of a contract for the supply of goods, necessary for putting the goods supplied into use and where the period of posting does not exceed 8 days (Section 5).

- Minimum rates of pay do not include contributions to supplementary occupational pension schemes and/or to the provisions received from these (Section 4).

- Also, the minimum rates of pay do not include provisions given to posted workers for their posting, since these are given in terms of reimbursement expenses occurred due to posting, such as travelling, housing or living expenses (Section 4).

### **Duration of Posting**

The length of the posting shall be calculated on the basis of a reference period of one year from the beginning of the posting. For the purpose of such calculations, account shall be given for any previous periods for which the post had been filled by a posted worker (Section 6).

### **Implementation**

- To safeguard the efficient implementation of the Law, undertakings have an obligation, before the beginning of the provision of services, to submit to the competent authority a written statement in Greek and English. It shall include the name of the undertaking, its head office address and legal status, details of the legal representative and representative in Cyprus, the address, name, legal status, head office of the place where posted workers will provide their services; the date the posting begins, possible duration etc (Section 8).

- The supervision and monitoring of the implementation of this Law is entrusted to the competent authority (Section 9).

### **Provision of Information**

The competent authority shall provide all the information on the terms and conditions of employment, which undertakings are obliged to guarantee to the workers posted to the Republic (Section 10).

### **Sanctions**

Every employer who violates the obligations under this Law is guilty of an offence and is liable to imprisonment up to 3 months or to a fine up to CY£2.000 or to both penalties or to any other sanctions derived from labour laws. Other provisions in the Labour Law that provide different penal sanctions continue to apply (Section 12).

### **Judicial Jurisdiction**

Having into consideration existing International Conventions on judicial jurisdiction, Section 13 of this Law provides a right to institute proceedings for disputes arising from the implementation of the Law in the Republic of Cyprus.

### **Enforcement of the Law**

This Law came into force on 1<sup>st</sup> of May 2004.