

## Law amending the Labour Code

### ORDINANCE № 216

Pursuant to Art. 98, § 4 of the Constitution of the Republic of Bulgaria

#### STATING :

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President of the Republic: **Georgi Parvanov**

State seal.

Minister of Justice: **Margarita Popova**

#### LAW

**amending the Labour Code** (promulgated, SG. 26 and 27 of 1986, as amended. No.. 6, 1988, issue. 21, 30 and 94 of 1990, issue. 27th , 32 and 104 of 1991 pieces. 23, 26, 88 and 100 in 1992; Decision № 12 of the Constitutional Court of 1995 - No.. 69 of 1995, as amended. No.. 87th, 1995 , SG. 2, 12 and 28 of 1996, issue. 124 of 1997,. 22 1998, Decision № 11 of the Constitutional Court of 1998 - No.. 52 of 1998; amended. No.. 56, 83, 108 and 133 of 1998,. 51, 67 and 110 of 1999, issue. 25th, 2001, issue. 1, 105 and 120 of 2002, No. . 18, 86 and 95 of 2003, issue. 52 of 2004, issue. 19, 27, 46, 76, 83 and 105 of 2005 pieces. 24, 30, 48, 57, 68, 75 , 102 and 105 of 2006 pieces. 40, 46, 59, 64 and 104 of 2007 pieces. 43, 94, 108 and 109 of 2008 pieces. 35, 41 and 103 of 2009 No.. 15, 46, 58 and 77 of 2010; Decision № 12 of the Constitutional Court of 2010 - No.. 91 of 2010, as amended. No.. 100 and 101 from 2010, SG. 18th , 33 and 61 of 2011)

§ 1. Chapter five up with Art Section VIII b. 107h - 107p:

#### "Section VIII b

Additional terms to perform telework

#### *Nature and conditions of telework*

Art. 107h. (1) Telework is a form of organizing work, exported from premises of the employer, employment carried on by the use of information technology, which outsourcing before it was or could be done in the premises of the employer.

(2) Teleworking is voluntary.

(3) The terms and conditions for teleworking to negotiate a collective or individual employment contract. In the individual employment contract specifically negotiated all the terms, rights and obligations of the parties in conjunction with telework and its performance

(4) The employer may offer the employee an additional agreement to the contract the individual to go from work carried out in the premises of the employer, to work remotely. The refusal of the employee can lead to the occurrence of adverse effects on him.

(5) The employee can offer the employer to switch from work carried out in the premises of the employer, to work remotely.

(6) an individual or a collective agreement may stipulate:

1. mixed modes and modalities for their implementation;
2. opportunities and conditions for transfer from remote to work on the premises of the employer.

(7) The specific nature of telework and arrangements for its implementation are defined in individual employment contract.

(8) The individual and / or collective agreement or the internal regulations of the employer may adopt rules to determine:

1. procedures for assigning and reporting of teleworking;
2. content, volume, and other performance characteristics of the job that are relevant to reporting

done.

#### *Workplace. Technical equipment and maintenance work*

Art. 107i. (1) An employee who performs work remotely, provides in home or chosen by him outside the room now some space for jobs.

(2) Questions related work, technical and other equipment in the workplace obligations and costs of maintenance and other conditions of supply, replacement and maintenance of equipment and clauses for the acquisition of certain items of equipment by the employee or employee who performs work remotely, be agreed in individual contracts.

(3) The employer shall provide at its own expense:

1. necessary to perform telework equipment and supplies for its operation;
2. program (software) security;
3. technical maintenance and support;
4. devices to communicate with the employee performing work at a distance and Internet connectivity;
5. data protection;
6. information and requirements for using the equipment and maintain it in good condition as well as statutory requirements and regulations, including those on the protection of data that will be used during the telework;
7. surveillance system, if one is required to be installed in the workplace, and written consent of the employee for this: in these cases must respect the right to privacy;
8. technical or other document tools according to the individual and / or collective agreement.

(4) An employee who performs work remotely, responsible for the proper storage and use of equipment given to him. In the event of equipment failure or interruption of information used and / or communication systems must immediately alert the employer to order and pre-arranged way.

(5) The individual employment contract may be negotiated using their own equipment the employee, as well as all rights and obligations arising from this.

(6) The individual and / or collective bargaining agreement negotiated conditions to prevent abuse by an employee who performs work remotely, with allocated equipment and Internet communications. Beyond direct job the employee can use them within reason and morality.

(7) The employer shall provide advance written information to the employee liability and penalties for violation of rules and requirements, including protection of official data, which is an integral part of his individual employment contract.

#### *Organization of teleworking and health and safety*

Art. 107k. (1) Employees who work remotely, enjoy the same rights, the organization of work and health and safety conditions in the Bulgarian legislation in force in the enterprise collective agreements with any benefit employees working in the premises of the employer.

(2) The employer shall ensure at the time of the event or change of employment jobs for work from a distance, which meet the minimum requirements for health and safety as defined in the Health and safety at work and in regulations for its implementation.

(3) The employer is responsible for safety and health at the workplace of employees who work remotely, it is obliged to inform the requirements of the work and the safety and health of workers in accordance with the regulations applicable collective agreements, internal rules of the company, the company's policy on safety and health at work for all requirements and rules for the organization of work and working with video display.

(4) An employee who performs work remotely, responsibility for compliance with the policy on work organization and health and safety at work, and its prescribed rules and regulations for health and safety at work.

(5) control for proper application and compliance with the requirements and standards for health and safety at work is carried out as follows:

1. employees who work remotely, are free to request a visit to the workplace with relevant application to the "Labor Inspection";

2. employer and / or his representative, representatives of trade unions, representatives of employees under Art. 7, para. 2 and supervisory bodies of the labor inspectorate have access to work within stipulated in individual and / or collective agreement with mandatory prior notification of the employee who performs work at a distance, and with his consent.

(6) Employees who work remotely, have the right to refuse access to the workplace without warrants, under the working time and / or agreed in individual and / or collective agreement.

#### *Hours. Holidays and vacations. Reporting of work*

Art. 107l. (1) The working hours of the employee who performs work at a distance:

1. be found in the individual employment contract in accordance with this Code, the collective agreement and the rules of internal labor in the enterprise;

2. determined in accordance with the system established by this code daily and weekly rest;

3. corresponds to a duration of working time, for employees who work in the employer's premises.

(2) The individual employment contract may expressly preclude the application of:

1. overtime;

2. night work;

3. work during national holidays.

(3) Subject to paragraph. 1 and 2, an employee who performs work on distance alone organize their time so that it is available to work in time, the employer and its trading partners in a communication link.

(4) Standards for workload and job performance of the employee who performs work remotely, are identical to those employees who work in the employer's premises.

(5) Actual hours worked each month reflects a document in a form approved by the employer. An employee who performs work from a distance, is responsible for the accuracy of the data.

(6) Employees who work remotely:

1. they determine breaks in their working hours in accordance with the provisions of this Code, the Health and Safety at Work and related implementation regulations and agreements in individual and / or collective agreement;

2. leave on order type and amount as set out in the Labour Code, regulations and agreements in individual and / or collective agreement.

#### *Salary*

Art. 107 m. (1) The amount of remuneration shall be determined by the individual employment contract under the provisions of labor legislation and in accordance with the collective agreement and internal rules on salary.

(2) An employee who performs work remotely, be entitled to any additional remuneration set out in current legislation, internal rules for wages in individual and / or collective agreement.

(3) Employees who work remotely, using a common ground on the social agenda.

#### *Collective rights of employees who work remotely. Integration with employees who work in the premises of the employer*

Art. 107n. (1) An employee who performs work remotely, have equal labor and trade union rights of employees who work in the premises of the employer.

(2) Employees who work remotely, can form a separate group to elect a single representative for information and advice on art. 7a, if the total of more than 20 workers.

(3) Employees who work remotely, have the right to participate in the organizational and social life of trade unions to which they belong.

(4) The employer shall provide opportunities for:

1. prevent isolation of employees who work remotely from other employees who work in the employer's premises, such as:

a) creating conditions for conducting regular business meetings or social facilities / offices of the

employer;

b) it can create a virtual company - Chat, forum or other means by which employees who work in facilities of the employer, and employees who work remotely, they can freely communicate;

2. access to corporate and professional information on related implementation of teleworking;

3. participation of employees who work remotely from the organizational and social life of the trade unions, with a membership.

(5) The conditions under which the capabilities provided under par. 1 to 4 shall be agreed in individual and / or collective agreement or settle with the internal working of the enterprise.

#### *Training, retraining, training*

Art. 107o. (1) Employees who work remotely, have the same access to training and opportunities for career development as they have employees who work in the premises of the employer and subject to the same policy evaluation.

(2) Employees who work remotely are entitled to appropriate training, provided they comply with the technical equipment and the characteristics of this form of work organization.

(3) When necessary, the head of the employees who work remotely, and other officials have the right training for this type of work and its leadership.

#### *Application of other provisions to make telework*

Art. 107p. On the outstanding issues in this section, the general provisions of this code. "

§ 2. In Art. 121 is a new paragraph. 4:

"(4) The terms of payment in the host country in the case of para. 3 does not include the payment of travel, subsistence and accommodation expenses according to the Bulgarian legislation. "

§ 3. Article 129 is amended as follows:

#### *"It is for the employer to provide the employee*

Art. 129. The employer must provide the employee with the terms and conditions set out in the Social Security Code and the Law on Health Insurance. "

§ 4. In Art. 130c, para. 1, item 3 at the end a comma and add "including when introducing homeworking and teleworking. "

§ 5. in art. 287 makes the following amendments:

1. Title is amended as follows: "Preliminary and periodic medical examinations."

2. In para. 1:

a) In the first sentence after the word "mandatory" insert "and pre"

b) The second sentence is amended as follows: "The conditions for conducting preliminary and periodic inspection according to the nature of work, working conditions and the age of the employees is determined by the Minister of Health."

3. Paragraph 2 is amended as follows:

"(2) Preliminary medical examinations are paid by those who apply for jobs, and periodic medical examination shall be borne by the employer."

§ 6. § 1 of the Supplementary Provisions shall be amended as follows:

1. At one point finally added "and teleworking."

2. In paragraph 4, second sentence, after the words "work at home" insert "and teleworking."

3. A section 16:

"16. "Posting under Art. 121, para. 3 "is a modification of the employment relationship by mutual agreement of the parties due to the sending of the same or another job in another state - State of the Union to another country - party to the Agreement on the European Economic Area or Switzerland in working conditions commensurate with the standards of the host country, but no worse than the minimum established in it. "

#### **Final provision**

§ 7. law in informing and consulting employees in multinational enterprises, enterprise groups and Companies (promulgated, SG. 57 of 2006, as amended. No.. 26 of 2011) shall be amendments:

1. The name "Final Provisions" is amended as follows: "Transitional and Final Provisions."

2. A § 2a:

"§ 2a. (1) The duties of informing and consulting employees in multinational enterprises and enterprise groups arising from this Act shall not apply to agreements under Art. 8 concluded or revised between 5 June 2009 and 5 June 2011, without prejudice to the negotiations on structural changes.

(2) In the event that the expiry of the agreements referred to in para. 1 Parties decide jointly to renew or review the provisions of this Act. "

The law was passed by the 41 th National Assembly on 6 October 2011 and is stamped with the official seal of the National Assembly.

President of the National Assembly: **Tsacheva**

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