

# Legal Alert



## Employment Трудове право

**Arzinger** 

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*This publication is not a legal advice and provides only general information about the most important legislation changes in Ukraine.*

*In order to avoid any risks prior to making any decisions related to information contained in this publication, please, seek legal counsel.*

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## Topic of the issue:

## **PARLIAMENT INTRODUCES EMPLOYEE COMPENSATION CHANGES AND CONTINUES COMBATTING OFF-THE-BOOKS WAGES**

On 1 January 2017, the Law "On Amendments to Some Legislative Acts of Ukraine" dated 06.12.2016 No.1774-VIII (hereinafter – Law No.1774) came into effect. Particular attention should be paid to the changes in the minimum wage rate and the new fines (financial sanctions) introduced into the Labour Code.

### **1. Payroll-related changes**

- The unified tariff system of wages in Ukraine will be replaced by the tariff system and other systems based on estimates of work complexity and employees' skills;
- **In the public sector**, the official salary scheme (tariff rates) for employees is based on the minimum wage (official salary) rate established by the Cabinet of Ministers of Ukraine. **In the non-public sector**, other compensation systems may be established in a collective agreement or, if none is concluded, by an order (directive) of the owner or its authorized body issued upon agreement with a trade union or otherwise with employees' representative.

- Requirements to employees' qualifications and expertise, their tasks, responsibilities and specializations are determined by professional standards (developed and approved by the CMU) or qualifying characteristics for employees' trades (developed and approved by the Ministry of Social Policy).

## 2. Changing the minimum wage rate

As of 1 January 2017, the minimum wage rate will not be changed throughout the year depending on the subsistence minimum. However, as previously, the minimum wage will be adjusted by the Parliament at least once a year in the Law on State Budget for 2017. **The minimum wage will be increased to amount to UAH 3,200.**

It should be noted that according to para 4 of part 2 of Article 265 of the Labour Code **a failure to comply with the government's minimum wage guarantees entails a fine of 10 times the minimum wage set by law at the time violations are detected at (UAH 32,000)** for each employee who has suffered a violation. Also, administrative sanctions are applied under the Code of Administrative Offences of Ukraine.

The transitional provisions of Law No.1774 establish that after the Law is enacted **the minimum wage shall not apply:**

- As a calculation value to determine employees' official salaries, wages and other payments and to calculate payment rates for administrative services (until the legislation is amended, the estimated value of 1600 UAH will be applied);
- In collective agreements and contracts of all levels. **Parties to collective agreements should bring their provisions into line with Law No.1774 within three months.** Until collective agreements and contracts are amended at all levels regarding the non-use of the minimum wage as a calculation value, the latter will amount **to the subsistence minimum for able-bodied persons.**

## 3. Local governments are granted authority to monitor compliance and impose fines for violations of the labour and employment legislation

When exercising their authority to monitor compliance with the labour and employment legislation local governments **may carry out inspections:**

- ✓ at enterprises, institutions and organizations owned by the respective territorial communities;
- ✓ at enterprises, institutions and organizations other than those owned by communities and regarding individuals use the work of employees (within the scope of delegated powers of the executive branch);

Also, local governments are entitled **to impose fines** for violations of labour and employment legislation.

It should be noted that these powers are assigned to executive bodies of city councils in regional centres and united local communities.

#### 4. Newly introduced penalties

From now on, paragraphs 6-7 of part 2 of Article 265 of the Labour Code provide for the following fines:

- **3 times the minimum wage** set by law at the time of detected violations (UAH 9600) for preventing an inspection on the observance of labour legislation or creating obstacles in the course thereof;
- **100 times the minimum wage** set by law at the time of detected violations (UAH 320,000) for preventing an inspection on the observance of labour legislation or creating obstacles in the course of an inspection **regarding violations in the form of:**
  - ✓ Employing a person without signing an employment agreement (contract);
  - ✓ Employing a person actually doing a full-time job within the working hours established at the relevant enterprise as a part-time employee;
  - ✓ Paying salary (remuneration) without accruing and paying a single social contribution and taxes.

In addition, the law (Article 188-6 of the Code of Administrative Offences of Ukraine) provides for administrative liability for failure to comply with legal requirements of officers who supervise and control the observance of labour legislation or for interfering with their activity.

**We call employers' attention to these important changes and recommend them to immediately bring the wages and internal documents into line with the revised legislation.**

Kind regards and best wishes,

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