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Newsflash

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Guidance on the implementation of Chapter A of Part IV of Law 4808/2021 (Official Government Gazette A 101/19.6.2021) «Individual Employment Law Regulations»

By virtue of the present we summarize the most important provisions of the Circular of the Ministry of Labor under number 64597/3.9.2021 repeating and/or clarifying regulations of the recent Law 4808/2021. More precisely:

- It is repeated that the full time contractual working hours are 40 hours on a weekly basis and that in case of five working days week the full contractual daily working hours are 8, reduced to 6 hours and 40 minutes in case of six working days week.

Further, it is provided that in course of flexible working arrangements in accordance with article 41 of Law 1892/1990 and in line with its terms, four days full time employment with 10 hours of work on a daily basis can be agreed between the employer and the employee. Employment exceeding the above limits and hours is prohibited. The working arrangements in question can apply either for a period of 6 months during 1 calendar year or for a period of 1 calendar year.

- It is repeated that the provision of break to the employees requires now onwards 4 hours of work (instead of 6 under the previous framework), whereas the break can be up to 30 minutes on a daily basis (which can be extended in the course of consultations between the employer and the employees' representatives on the basis of a written risk assessment report in certain companies which, due to the work's nature and tension, longer breaks are required).

It is further clarified that the break time does not qualify as working hours, whereas it is explicitly provided that the regulation in question does not affect companies which have already included the employee's break in their working hours.

- Overtime for all sectors of financial activity cannot exceed 150 days on an annual basis and 3 hours on a daily basis. Especially for 2021, any overtime already worked (irrespective of the financial activity sector) will be deducted from the above threshold.

The procedure for the approval of overtime occupation in excess of the above annual threshold (150 hours) is simplified, as the approval is now granted by virtue of a decision of the General Manager of Employment Relations, Health and Safety at Work and Work Integration, in case of urgent work which cannot be postponed.

- The implementation of flexible working hours in accordance with article 41 of Law 1892/1990 on the basis of an agreement between the employer and the employee following the latter's application is clarified. In fact, it is repeated/clarified that:
 - the procedure in question is possible only in case there is no trade union at the company or in case an agreement between the trade union and the employer has not been concluded,
 - the agreement in question can apply during a certain period (6 or 12 months within one year),
 - the implementation of the arrangements in question following an application of the employee is conditional up (a) the filing of a signed application by the employee (in written or electronic form) which must be maintained by the employer, (b) an explicit clause in the employment agreement that the clause of the weekly and daily working hours can change on the basis of an agreement of the parties, whereas the flexible working hours arrangements must be notified to the employee and (c) filing with the electronic platform ERGANI of a complementary Working Hours Table (E4) accompanied by the working hours arrangements program agreed (to also refer to the period of validity of the arrangements in question),
 - dismissal of an employee on grounds of failure to file a related working hours arrangements application is restricted and legally invalid,
 - in case of termination of an employment

agreement by any means before the commencement of reduced working hours, the employee is entitled to compensation for the additional hours worked during the period of increased working hours.

- The provisions of Law 4808/2021 on the unpaid leave on the basis of the application of the (full or part time) employee and a related agreement between the parties are repealed. The agreement in question must be posted with the electronic platform ERGANI and be notified to e -ΕΦΚΑ. During the period of unpaid leave, the employment agreement is suspended and social security contributions are not due, whereas following the unpaid leave's expiry all rights and obligations arising from the employment agreement continue to apply. Unpaid leave is taken into account for the calculation and granting of the annual leave of employees taking annual leave after having also been granted unpaid leave.
- New Year's Day and Epiphany Day are added (for clarity purposes) to the obligatory bank holidays.
- It is repeated that as of 1.1.2022 onwards, the provisions on the termination of employees' employment agreements or relations apply to workers/technicians. Termination compensation is calculated on the basis of twenty (22) daily wages which are considered the worker's monthly salary, unless the worker is already compensated by monthly salary.
- Cases of invalid dismissals are extended (for instance, dismissal because of the exercise by the employee of his legal rights in case of violence and harassment or exercise of any other legal right, dismissal of a father during a period of up to six months following the birth of the child, dismissal of employees having requested or taken any leave, dismissal of remote workers having

exercised the right of disconnection etc.) and the burden of proof that the dismissal was made on permitted grounds now onward lies with the employer.

- The right of the employer to release (partially or entirely) the employee from the obligation to provide services during the notice period in case of dismissal upon prior notice is repealed. In such a case the employer continues to be obliged to pay the remuneration corresponding to the notice period, whereas the employee can conclude an agreement with another employer.

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This Newsletter aims to provide the reader with general information on the above-mentioned matters. No action should be taken without first obtaining professional advice specifically relating to the factual circumstances of each case.

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