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LEGAL FLASH NEWS

APRIL 24, 2013

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## COMBATING DELINQUENCY IN SOCIAL SECURITY AND THE LABOUR MARKET

Law no 4144/2013 regarding the combating of delinquency in Social Security and the Labour Market was published on 18.04.2013 (Government Gazette A' 88). The new law introduces many changes in labour and social security legislation:

- **Deadline for social contributions payment (article 73):** Article 20 of law no 4075/2012, according to which social contributions were payable to IKA-ETAM until the 5<sup>th</sup> business day of the month following the month during which the work was provided, is abolished since the first day it was in force. Consequently, the payment of social security contributions will take place pursuant to the previous legislative regime, according to which the social contributions of each month will be paid until the last business day of the month following the month during which the work was provided.  
  
Furthermore, by virtue of the new law, the deadline for the payment of social contributions, additional charges and any other relevant matter may be redetermined upon a Joint Ministerial Decision by the Minister of Finance and the Minister of Labour, Social Security and Welfare.
- **Regulations regarding overtime work (article 80):** The simplification of the overtime work legitimatization procedure is provided for. More specifically:
  - a) Statutory overtime work, as provided by the law in force, must be registered in the Overtime Work Book kept by the employer before it takes place. Overtime Work Book applies for all businesses, undertakings and kinds of work in general.
  - b) The employer must notify the competent Employment Office within the first 15 days of each month of the total overtime work realized by each employee in the previous month.
  - c) Sanctions are imposed in case the employer does not notify the Employment Office or does not register the overtime work in the Overtime Work Book.
- **Pensions control (article 1-3):** An Information System of Registration Certificates will be established in the Ministry of the Interior, at which the Government Center for Social Security SA (IDIKA SA), the Hellenic Statistics Authority (ELSTAT), the National Organization for the Provision of Healthcare Services (EOPYY) and other bodies shall have access. IDIKA SA shall cross-check pension archives and Registration Certificates and, in the event there are any changes (death, marriage, divorce, etc) which are not in accordance with the benefits provided, IDIKA SA shall immediately suspend the payment of such benefits and at the same time notify EOPYY.

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- **Collaboration of Financial Crime Police - SEPE - EYPEA (article 14):** The Financial Crime Police and Electronic Crime Unit (IPOADIE) is also competent, along with the inspectors of the Hellenic Labour Inspection Corps (SEPE) and of IKA-ETAM for the carrying out of inspections, within the limits of its jurisdiction. Documents, books and certificates which must be available for inspection carried out by IKA-ETAM and SEPE inspectors, must be also be available for inspection in the event of an inspection carried out by the Financial Crime Police and Electronic Crime Unit.
  - **Social Security Compliance Certificate (article 17):** In addition to the annual certificate issued by certified auditors or audit firms of law no 3693/2008 in the framework of compulsory audits to S.A.s and L.T.D.s, from 01.07.2013 a Social Security Compliance Certificate must be also issued. Any social security law violation which is detected by the auditors must be included in said certificate. Specific issues as regards the Social Security Compliance Certificate will be regulated with a decision by the Minister of Labour, Social Security and Welfare.
  - **Sanctions in the event persons receiving an unemployment benefit are employed illegally (article 19):** In case it is ascertained during an inspection that a person receiving an unemployment benefit provides his/her services under any kind of employment to an employer who has not announced the employment to the competent authorities, a sanction equal to the amount of € 3.000 is imposed on the employer for each person receiving an unemployment benefit he/she employs illegally. If said employer has previously announced to the authorities the termination of employment of said person/s, the sanction is equal to the amount of € 5.000.
  - **Procedure regarding the imposition of administrative sanctions for violations of labour law (article 23):** Article 24 of law no 3996/2011 is supplemented and modified. Inter alia, it provides for the following:
    - a) The minimum amount of the administrative sanctions scale is reduced from € 500 to € 300.
    - b) In case two or more fines for violations of labour legislation characterized by the provisions in force as of “high” or “very high” significance are imposed within 3 years before the end of the offer submission deadline for a public contract, the employer is excluded from the awarding of the contract upon decision of the Contracting Authority, in addition to any other sanctions provided for.
  - **Article 68 of law 3863/2010 regarding working contracts of service providers is modified and supplemented (article 22). More specifically:**
    - a) The establishment of a register in which violations of labour legislation by cleaning and/or security service providers provisions will be recorded. Said registry will be kept by SEPE.
    - b) Immediately after the deadline for the submission of offers expires, the Contracting Authorities must require and obtain from SEPE a certificate which will include all fines imposed on the contractors participating in the tender.
    - c) The contracting authorities may exclude cleaning and/or security service providers from the awarding of public contracts due to a significant professional misconduct, as it is defined in article 22 of the new law.
    - d) A fine imposed on the contractor for violation of labour legislation which is characterized by the provisions in force as of “high” or “very high” significance for the second time during the time the public contract is in

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force, must lead to the termination of the contract by the Contracting Authority and the declaration of the contractor in default.

- **Reconciliation Procedure – Labour Dispute Resolution (article 23):** Article 3 of law 3996/2011 regarding the reconciliation procedure and the labour dispute resolution before SEPE is modified and supplemented. More specifically, with the new changes there is a distinction between these two procedures and their limits are clarified:
  - a) The reconciliation procedure concerns any issue causing dispute or disagreement regarding an employment relationship, even if said issue is not regulated by a collective agreement. The reconciliation procedure starts after an application is filed by the relevant employee or employer unions or by the employer individually. The procedure may be conducted in a local or regional or national level.
  - b) The labour dispute resolution procedure concerns any kind of disagreement between one or more employees and the employer accruing from the employment relationship regarding the implementation and observance of labour legislation. The employee or the employees, the employer and the relevant unions are entitled to seek the intervention of an Inspector of Labour Relations by filing a relevant application. The parties must be present at the hearing of the dispute and, in case a party is absent, the Inspector of Labour Relations may impose administrative sanctions.
  
- **Provisions regarding health and safety at work (article 36):**
  - a) The knowledge level required and the specializations of safety technicians may be determined upon decision of the Minister of Labour, Social Security and Welfare with the assent of the Council for Health and Safety at Work (SYAE), according to the number of employees and the kind of activity of the undertaking.
  - b) Administrative sanctions are imposed as well for the violation of provisions regarding health and safety at work which were published before 18.10.1985. Said provisions are set out in article 36 paragraph 3 of the new law.
  - c) In cases where the minimum annual time of safety technician or occupational doctor employment in a branch is less than four hours, it can be allocated on a 6-month basis, on condition that it shall not be less than two hours per visit and that it shall be allocated upon the assent of the labour inspector.
  - d) Article 76 of the new law provides that a system will be established for the control of safety technicians' and occupational doctors' employment hours, which are declared in SEPE. This system will be determined by virtue of a ministerial decision.
  
- **Labour ticket (“ergosimo”) (article 74):** Household worker categories employed with the labour ticket are redetermined, new categories of workers are added and the conditions for the use of the labour ticket become stricter. Social contributions deductions are 25% of the labour ticket amount (they were equal to 20% pursuant to the previous regime). Furthermore, the days of insurance according to the labour ticket are no longer doubled and there are only 25 days of insurance per calendar month. Said provision is in force since 01.01.2013.

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- **Other provisions:** The new law, inter alia, provides for more effective absorption of the unemployed in the labour market and regulates matters of General Secretariat of Social Security and its supervised bodies.



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