

## **LAW ON THE AGENCIES FOR TEMPORARY EMPLOYMENT**

### **I. GENERAL PROVISIONS**

#### Article 1

This law governs the conditions and the manner of foundation of the agencies for temporary employment, as well as the conditions and the manner of temporary employment for temporary work with another employer.

#### Article 2

A private temporary work agency may place temporary employments with another employer by charging a contribution (hereinafter referred to as temporary work agency), in compliance with this law.

#### Article 3

The agency places temporary employments based on the previous agreement for ceding an employee concluded between temporary employment agency and another employer-user and employment agreement concluded between the agency for temporary employment and the employee which is ceded to another employer-user.

### **II. TEMPORARY EMPLOYMENT AGENCY**

#### Article 4

The temporary employment agency, based on the agreement for ceding an employee, between the agency and another employer, to cede an employee to another employer user for temporary work in the following cases:

- 1) replacement of temporary absent employee;
- 2) temporary increased scope of work;
- 3) seasonal work;
- 4) work on a project;
- 5) specific non continuous works which aren't part of the predominant activity of the employer-user; and
- 6) unpredictable short-term activities coming out from performing predominant activity of the employer-user.

Agreement for ceding an employee to perform the same temporary work may be concluded while the need exists, but not longer than a year.

The Temporary employment agency mustn't cede an employee to perform the same work for the same employer without interruption or with interruption longer than a year.

## Article 5

The temporary employment agency may be established by a natural person who:

- is a national of the Republic of Macedonia;
- has at least high school completed; and
- has available suitable working premises in compliance with the law;

The temporary employment agency is recorded in the registry of the temporary employment agencies kept by the Ministry responsible for the labor, based on the application for registration. The application for the registration should encompass the name and the surname, citizen's personal registration number and place of residence, agency name, agency's head office and subject of the work.

The application for registration into the registry from paragraph 2 of this article should be submitted by a natural person, founder of the agency. The application for registration should be followed by:

- bank guarantee in the amount laid down in article 6 of this law;
- license for providing temporary employments issued by the Ministry of labor;
- statement for foundation of the agency;
- statement of responsible person of the agency;
- certified signature by Notary Public of the founder of the agency and the responsible person.

The agency gains the capacity of legal entity by its registration into the registry of temporary employment agencies.

The Minister in charge for the work related to labor prescribes the manner of registration and keeping the registry of the temporary employment agencies by act.

The agency is obliged to inform the Ministry of labor about any change of the head office of the agency and responsible person, within 15 days from the day, the change has occurred.

The temporary employment agency can not be established by an individual businessman or trade company.

## Article 6

The natural person submits to the Ministry of labor a bank guarantee for foundation of a temporary employment agency.

The bank guarantee from paragraph 1 of this article amounts as follows:

- 1) for conclusion of more than 250 employment agreements EUR 30,000 in denar counter value calculated according to the middle exchange rate of the National Bank of the Republic of Macedonia;

- 2) for conclusion of 250 employment agreements-EUR 20.000 in denar counter value calculated according to the middle exchange rate of the National Bank of the Republic of Macedonia;
- 3) for conclusion of 100 employment agreement –EUR 10.000 in denar counter value calculated according to the middle exchange rate of the National Bank of the Republic of Macedonia;

The bank guarantee from paragraph 1 of this article shall be activated if the temporary employment agency hasn't paid a salary and the contributions from the salary to the employer for more than three months.

The payment of the unsettled contributions for pension and disability insurance, take precedence over the other payments.

The bank guarantee shall be activated in a whole or partially upon submission of the notice to the bank which has issued the bank guarantee, by the Ministry of labor which it submits at a previous notification and report made by the Labor inspection about the unsettled contributions for pension and disability insurance by the Temporary employment agency.

#### Article 7

The temporary employment agency may provide temporary employments only in the country if it provides this works as its only activity.

The temporary employment agency can not start the work before the issuance of the license for temporary employment and before its registration in the Central registry of the Republic of Macedonia.

#### Article 8

The temporary employment agency provides the temporary employments by charging the employer-user with contributions for the services.

The temporary employment agency can not charge the persons that it employs or cede to another employer-user with the contributions for the services of temporary employment.

#### Article 9

The license for providing temporary employment to the person from article 5 paragraph 1 of this law is issued by the Ministry of labor, with the validity of two years, with a possibility of its extension.

- 1) license A for conclusion of more than 250 employment agreements by the temporary employment agency;
- 2) license B for conclusion of up to 250 employment agreements by the temporary employment agency; and

- 3) license V for conclusion of up to 100 employment agreement by the temporary employment agency.

The license from paragraph 1 of this article is issued on the basis of the submitted written request by natural person, being a founder to the Ministry of labor. The natural person encloses to the requested documents confirming the fulfillment of the conditions from article 5, paragraph 1 and 3, line 1 and article 6, paragraphs 2 and 3 of this law.

The license for temporary employment may be transferred in whole or in part to another natural person.

The license for temporary employment may be deprived (taken away), if the temporary employment are against this law or if the changes incur with a view to the conditions for foundation and dealing with the activity determined by this law, and if the Ministry of labor is not informed about the foregoing.

The license should be hung up on a visible place in the premises of the temporary employment agency.

The Ministry of labor keeps separate records of the issued and deprived licenses for providing temporary employment for temporary works.

The request (application) for extension of the license together with the documents confirming the fulfillment of the conditions set down in the article 5, paragraph 1 and 3 and line 1 and article 6, paragraphs 2 and 3 of this law should be submitted a month prior to the expiration of the license.

The Ministry of labor in conformity with the application (request) from paragraph 8 of this article extends the validity of the license, by the expiration of two years of the validity of the license for temporary employments.

#### Article 10

The temporary employment agency mustn't concluded employment agreements exceeding the number of the agreements for which the license is issued.

### III. CEDING THE EMPLOYEES FOR PERFORMING TEMPORARY WORKS

1. Agreement for ceding an employee to the employer-user

#### Article 11

The ceding an employee to perform temporary works is made on the basis of the agreement for ceding an employee that should be concluded between the temporary employment agency and the employer-user.

The agreement for ceding an employee should be compulsory concluded in written.  
The agreement for ceding an employee form paragraph 1 of this article particularly includes the following:

- particulars on the contracting parties;
- number of employees that the user needs;
- required qualifications of the employees for carrying out the works;
- period for which the ceding of the employee is requested;
- the place of carrying out the works;
- type of the work that the ceded employee shall perform;
- person authorized by the user to represent the employees;
- the manner and the period at which the user shall be obliged to provide a salary, contributions for social insurance and other allowances and compensations, in conformity with the law and collective agreement;
- the obligation of the user to provide a calculation of the salary and the contributions for the employee, and to state the regulations applicable for calculation of the salary to the temporary employment agency;
- the amount of the compensation for the temporary employment agency;
- the obligations of the user to pay the allowances and compensations pursuant to the law and collective agreement;
- user's obligations to provide protection at work, in conformity with the regulations on the employment and protection at work; and
- The conditions and the manner of use of holidays and leaves by the ceded work in compliance with the law and the collective agreement.

The agreement of the paragraph 1 of this article can not be concluded:

- for replacement of the employee by the user during the grievance;
- if the user in the previous period of six months out of any business reasons, has canceled the employment agreement to the employees who performed the works for which the ceding of the employee was required; and
- For ceding of employee to another temporary employment agency or from one to another user.

#### Article 12

The agreement for ceding an employee should be concluded in written.

The copy of any concluded agreement for ceding an employee should be kept in the work premises of the temporary employment agency and the employee-user.

The temporary employment agency undertakes to submit a copy of any concluded agreement for ceding employee to the Inspection of labor and Employment agency of the Republic of Macedonia.

The labor inspection carries out inspection survey of the temporary employment agency's work.

## 2. Employment agreement

### Article 13

In compliance with the agreement for ceding an employee, before the ceding of the employee to the employer-user the temporary employment agency concludes an employment agreement with the employee who is ceded to the employer-user.

The agreement from paragraph 1 of this article should obligatory include the following:

- particulars about the contracting parties;
- term of ceding the employee to the employer user (term of the employment agreement);
- date of start and end of the work for the user;
- accurate name and head office of the employer user;
- place of carrying out the work;
- the duties that the employee shall perform for the employer-user;
- work time (daily and weekly);
- amount of the salary, contributions for the salary, allowances, periods and the way of payment; and
- temporary employment agency's obligations toward the employee during the period of his/her ceding to the user.

The temporary employment agency submits a copy of any concluded employment agreement to the Employment Agency of the Republic of Macedonia.

The provisions for the employment agreement of the Law on employment relations are accordingly valid and applicable for conclusion of the employment agreement from paragraph 1 of this article.

### Article 14

The salary of the ceded employee can not be lower than the salary of the employee working for the employer being a user of the same works, if such employee doesn't have a salary of the employee performing the similar works in the appropriate activity.

### Article 15

The employer user is deemed to be an employer of the ceded employee regarding the application of the provisions of this law and other laws and regulations by which the protection at work is arranged and he/she is responsible to provide protection at work to the ceded employee.

### Article 16

The ceded employee undertakes to perform the work in compliance with the instruction of the employer-user.

The employer-user and the employee are obliged to comply with the provisions of this law, any other law and the collective agreement which bind the employer-user to respect the rights and obligations regarding the performance of the works.

If the employer-user violate breaches the obligations from paragraph 2 of this article, the ceded employee has right to refuse the work.

The ceded employee has also right to refuse the work if:

- the employer-user doesn't provided to him/her protection at work in compliance with the regulations; and
- if he/she cedes him/her to another employer-user contrary to this law.

The ceded employee shall be obliged to inform in written the temporary employment agency and the Labor inspection about the refused work laid down in paragraphs 3 and 4 of this article.

#### Article 17

The temporary employment agency may terminate the employment agreement before its expiration:

- by prior written notice of five days for the employment agreement concluded for up to 30 days; and
- by prior written notice of ten days for the employment agreements concluded for more than 30 days.

The termination of the need of the employer user for an employee before the expiration of the term laid down in the agreement cannot be a reason for termination of the agreement either between the employer user and the temporary employment agency or the temporary employment agency and the employee.

#### IV. PENAL PROVISIONS

#### Article 18

The temporary employment agency shall be fined MKD 100,000 to 20.000 for any violation, if:

- 1) it provides temporary employment contrary to the articles 3, 4, 5 and 6 of this law;
- 2) it didn't hang up the license for providing temporary employment on any visible place in the agency premises ( article 9, paragraph 6) ;
- 3) it concludes employment agreements above the number of the agreements for which the license has been issued (article 10);
- 4) it provides temporary employment contrary to the articles 7 and 8, paragraph 2 of this law;
- 5) it provides temporary employment to the employee contrary to the articles 11 and 12, paragraph 1 of this law;

- 6) it doesn't keep a copy of the agreement for ceding an employee in its the working premises it doesn't provide it to the Labor inspection and the Employment agency of the Republic of Macedonia (article 12, paragraphs 2 and 3);
- 7) an employment agreement isn't concluded before the ceding of the employee to the employer-user and the agreement doesn't include the provisions from the article 13 of this law; and
- 8) it doesn't pay a salary to the ceded employee in compliance with the article 14 of this law.

The responsible person of the temporary employment agency shall be fined MKD 7.000 to 10.000 for the violation from paragraph 1 of this article, too.

#### Article 19

The employer-user shall be fined MKD 100.000 to 200.000 if he/she doesn't provide money for salary, contributions to the salary, allowances, compensations for the services of intermediation and calculation of the salary and the contributions and if he/she doesn't fulfill the obligations regarding the protection at work of the ceded employee (article 11, 14 and 15).

### V. TRANSITIONAL AND FINAL PROVISIONS

#### Article 20

As from the date of coming into force of this law, the validity of the Law on the youth cooperatives terminates. (Official journal of SRM no. 28/88)

#### Article 21

Ministry of labor shall lay down the act from article 5, paragraph 5 of this law within 30 days as from the date of coming into force of this law.

#### Article 22

The actual youth cooperatives undertakes to reorganized themselves and to rearrange their work according to this law within three months as from the date of its entering into force, in the contrary they shall be erased from the registry.

#### Article 23

This law enters into force at the eight day as from the date of its enunciation in the Official journal of the Republic of Macedonia.