

Changes in employment of foreigners and stateless persons in Ukraine

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On October 12, 2022, the President of Ukraine has signed the Law "[On Amendments to certain laws of Ukraine regarding employment of foreigners and stateless persons in Ukraine and provision of intermediary services in employment abroad](#)" No. 2623-IX as of 21 September 2022 (hereinafter referred to as the "the Law").

The Law comes into force on the day, following the day of its publishing.

The Law aims to simplify the procedure of foreigners' and stateless persons' employment, to ensure equal employment opportunities for citizens of Ukraine and foreigners, to bring from the shadow labor relations with foreigners and stateless persons, as well as to improve legislation in this area.

Below is an overview of the main changes, prescribed by the Law.

Special procedure for obtaining a work permit for foreigners and stateless persons (hereinafter - Work Permit) for citizens of russian federation and republic of belarus

The law establishes that issuance and extension of the Work Permit for citizens of russian federation, republic of belarus, as well as for the citizens of other states recognized as those being a threat to the national interests of Ukraine, is done upon approval of the regional bodies of the Security Service of Ukraine.

The categories of persons for whom the Work Permit is issued have been changed

In particular, the Law added a new category of foreigners and stateless persons, namely those who arrived in Ukraine for the purpose of studying at higher education institutions and intend to work during the period of study and after graduation, provided that they are employed no later than 30 calendar days before the end of studies. The Law also abolished special categories of foreigners and stateless persons (foreign highly paid professionals, foreign IT professionals, etc.).

Changes in the list of documents required for Work Permit obtaining or extension of its term

The Law provides for certain amendments and clarifications regarding the list of documents required to obtain a Work Permit. In particular, to obtain a Work Permit for the category of seconded foreign workers, in addition to a copy of the foreign economic agreement concluded between Ukrainian and foreign entities, it will be necessary to provide a copy of the document confirming labor relations between the foreign worker and the foreign employer who assigned him. The Law does not specify which document (a copy of the employment contract, a letter on company's letterhead, etc.) will be appropriate for the purposes of obtaining a Work Permit.

Also, the Law foresees that the employer must provide a confirmation of the fee payment for issuance or extension of the Work Permit before it is issued or extended (under the previous rules, the payment was made after the decision to issue or extend the validity of the Work Permit was taken). At the same time, it is prescribed that should a negative decision to issue or prolong the Work Permit be taken, the funds paid by the employer will be returned no later than 10 working days from the moment of the relevant decision.

Requirements on the size of foreigners' and stateless persons' remuneration were abolished

Earlier, the employer was obliged to pay foreign citizens and stateless persons remuneration in the amount from 5 to 10 minimum wages, depending on the category of such persons. By canceling this requirement, the lawmaker aims to reduce the financial burden for employers using foreign labor and to establish equal conditions of payment for both Ukrainian citizens and foreigners and stateless persons.

The Work Permit's term of validity has been changed and the fee for issuing or extending the validity of the Work Permit has been increased

The law slightly changed the validity period of the Work Permit. For example, if previously the maximum validity period of Work Permits for intra-corporate concessionaires was not limited, now it should not exceed 3 years. For employees and gig workers, the validity period of the Work Permit should not exceed 2 years.

Also, the Law increased the fee for issuing Work Permits. From now, for Work Permits issued up to 6 months inclusive, 3 subsistence minimums for able-bodied persons (subsistence minimums) need to be paid, for Work Permits issued from 6 months to 1 year

inclusive - 5 subsistence minimums, for Work Permits issued from 1 year to 2 years inclusive - 8 subsistence minimums and for Work Permits issued from 2 to 3 years inclusive - 10 subsistence minimums.

The methods of submitting documents

The law regulates the methods of submitting applications and documents for obtaining, extending the validity, introducing changes to, as well as cancelling the Work Permit. In addition to personal application and sending a mail by post with a description of the attachment, documents can be submitted through the employer's electronic cabinet, through the center for the provision of administrative services or through the Unified State Web Portal of electronic services (if technically possible).

The possibility of obtaining a duplicate of Work Permit in case of its loss or damage

A duplicate of a lost Work Permit is issued if the employer submits to the territorial body of the central executive authority that implements state policy on employment and labor migration an application in a free form on issuance of a Work Permit's duplicate (in case of damage, the damaged document is also submitted). Issuance of Work Permit's duplicate is free of charge.

The deadline for submitting of Work Permit's extension applications is limited

The Law stipulates that an application for extension of the Work Permit shall be submitted by the employer no later than 20 and no earlier than 50 calendar days before the expiration of such Work Permit.

The grounds for Work Permit's cancellation have been expanded

The law adds the following grounds for the Work Permit's cancellation:

- ▶ receipt of a request from the National Police, Security Service of Ukraine, or another relevant state body to revoke a Work Permit if the actions of a foreigner or a stateless person violate the legislation on the legal status of foreigners and stateless persons or contradict the interests of ensuring the national security of Ukraine
- ▶ non-payment by the employer of the unified social tax for the person, for which the Work Permit was obtained, within 2 months from the date of conclusion of the employment agreement (contract) with a foreigner or stateless person.

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