



Remote work, flexible working hours,
delay allowance: labour law changes
during quarantine in Ukraine

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Remote work, flexible working hours, delay allowance: labour law changes during quarantine in Ukraine

The State continues to respond to the situation with COVID-2019 and promptly adopt regulations to resolve the quarantine-related issues. On March 30, 2020, a law intended to provide for significant changes in the field of labor relations was adopted. Let us consider the major changes and their impact on employers and employees.

First change: flexible working hours and remote work

The Code of Labor Laws of Ukraine (hereinafter - the Labor Code) was for the first time supplemented by the terms “**flexible working hours**” and “**remote (home) work**”.

Flexible working schedule means establishing a schedule other than the one defined by the internal labor regulations. The basic condition is to observe the established standard of working time (day, week, etc.). In other words, **from now on, the employer can officially change the schedule of work to more comfortable during quarantine.**

It is laid down that such a working schedule may include:

- fixed time during which the employee must be present at the workplace and perform his or her duties. The working day can be divided into parts;
- shift working time when the employee, at his or her own discretion, determines periods of work within the established standard of working time;
- break time for rest and meals.

Recording of working time is to be provided by the employer. The application of flexible working hours does not entail changes in the task setting, remuneration and **does not affect the scope of labor rights of employees.**

It is also provided that the said schedule may be established by agreement between the employee and the employer for a fixed or indefinite period of time, both upon employment and subsequently.

During remote (home) work, the work is performed by the worker at his place of residence or at another place of his choice by means of information and communication technologies.

During remote (home) work, employees allocate their working time at their discretion. Unless otherwise provided in the employment contract, they are **not subject to** internal labor regulations. However, the total duration of working time **may not exceed the statutory standards.**

As in the case of flexible working hours, performing remote (home) work does not entail any limitations in the scope of workers' labor rights.

At the same time, unless the employee and the employer have otherwise agreed in writing, the remote (home) work provides for **full payment within the terms stipulated by the acting employment contract**.

An employment contract for remote (home) work **must be concluded in writing**.

However, the Law stipulates that at the time of the epidemic, pandemic, etc., the condition of remote work and flexible working hours may be established without a written contract; the order of the employer will suffice.

What does it mean in practice?

Under the new law, at the time of the epidemic/pandemic threat, an employer has the right to decide on establishing flexible working hours and/or remote (home) work. Along with this it should be noted that according to the Labor Code (Article 32), an employer must warn an employee of a change in working hours 2 months in advance. At the same time, the law of March 30 does not override this requirement. Therefore, when establishing new forms of work organization, it is still recommended to obtain the consent of employees in the form of their applications.

It should be also kept in mind that the reduction of wages due to the establishment of new forms of organization of work can be possible **solely** under agreement with the employee.

Second change: the payment of stoppage allowance

Idle time is a suspension of work caused by the absence of organizational or technical conditions necessary for the performance of work, unavoidable force or other circumstances.

The law of March 30 stipulates that the idle time through no fault of the employee during the quarantine shall be payable by not less than two thirds of the tariff rate (salary) set for the employee.

What does it mean in practice?

It should be noted that the Law resolved ambiguous interpretation of the provisions of Article 113 of the Labor Code regarding the procedure for payment of delay allowance.

On the one hand, it was previously provided for that idle time through no fault of the employee should be paid at the rate of not less than two-thirds of the tariff rate (salary) set for the employee. On the other hand, the same article of the Code stipulates that during the idle time when a production situation, dangerous for the life or health of the employee (or for the people who surround him/her and the environment not through his fault), arises, his/her **full average salary should be paid**.

From now on, the Labor Code stipulates that the idle time during the quarantine period is to be paid by **at least two-thirds of the employee's salary**. However, it is necessary to pay attention to the terms of the employment contract with the employee and to the provisions of the collective agreement (if it was concluded at the enterprise, institution, organization), since they may determine a different procedure for payment of the idle time not through the employee's fault.

Third change: payment of unemployment benefits

The new Law amended the Law of Ukraine "On Employment of Population".

From now on, partial unemployment benefits will also be provided to those who have lost part of their salary as a result of forced reductions in working hours due to the cessation (reduction) of production by reason of COVID-19 control measures.

Such assistance for the further payment to employees will be provided to employers of **small and medium-sized businesses** upon their request.

It should be noted that such assistance **cannot be claimed by employers who have had arrears of wages and single social security tax over a period of five years preceding the year of cessation of production.**

Partial unemployment benefit is to be set for each hour by which the employee's working hours have been reduced, at the rate of two-thirds of the tariff rate (salary) set for the employee. However, the amount of assistance may not exceed the minimum salary.

What does it mean in practice?

Employers whose production has been suspended due to measures to prevent coronavirus are entitled to receive **partial unemployment benefits** for the further payment to employees whose working hours have been reduced.

To do this, the employer must apply to the State Employment Center within 30 calendar days from the date of suspension of production and submit a list of documents specified by the Law on Employment of the Population. In particular, the employer will be required to give an order with the date on which production has been suspended (reduced) and a list of measures to prevent the occurrence and spread of coronavirus disease (COVID-19).

Other innovations and results

The law provides for a number of other innovations. In particular, quite ambiguous changes have been made to the Article 21 of the Labor Code, which previously required the employee to **observe the rules of the internal work order**. The new Law removed this obligation without any reservation. In our opinion, it would be more appropriate to assume that the rules of internal labor regulations should not apply only to those workers who work remotely.

Among other important changes, it is worth noting that during quarantine, the terms of appeal to the court for resolving labor disputes **are extended for the duration of quarantine**.

It should be pointed out that the drafting and adoption of the Law took place in a very short time, resulting in inconsistency and contradiction of the new provisions. However, changes to the labor law are definitely in line with the real situation and are indeed necessary.

Take care and stay safe!

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COVID-19

Legal Support Team

With the need to effectively manage the business crisis caused by the COVID-19 spread, GOLAW created a team to support you on any related legal issues in Ukraine. Keep up to date with the recent changes our government makes to deal with COVID-19 and mitigate its consequences.

We are stronger together.



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Labour issues during quarantine

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