

CYPRUS

I. Legal notice – disclaimer

This sheet aims to provide a general overview of the main substantive rules concerning the terms and conditions of employment to be met by legislation transposing Directive 96/71/EC concerning the posting of workers in the framework of the provision of services (OJ L 18 of 21.1.1997). By its very nature, such a sheet can only summarise and does not necessarily contain all the relevant information in this context. In no way can it replace legislative, regulatory or administrative texts, or applicable collective agreements. The information below has been provided by the authorities of the Member States, which have made every effort to ensure its accuracy. Neither the Commission nor the Member States concerned can, however, guarantee that the information provided is always precise, complete, accurate and up to date. Furthermore, publication on the portal of the European Commission does not imply in any way that the latter or its DGs and Services consider the rules presented in this way to be in conformity with Community law.

II. Instrument transposing Directive 96/71/EC

Law No 137(I) of 2002 on Posting of workers in the framework of the provision of services.

Official publication: Official Journal 3623 of 19 July 2002, pages 2361-2365, and Official Journal 3847 of 30/4/04, Annex III (I), page 2178.

Internet link: <http://www.mlsi.gov.cy/dl>

III. Information on legislation applicable in accordance with the Directive

Information on legislation applicable to undertakings which, for a limited period of time, post workers to the territory of Cyprus can be obtained at the following address:

Director

Department of Labour, Ministry of Labour, Welfare and Social Insurance

9, Klimentos street

1480 Nicosia Cyprus

Tel. No: +357 22400802

Fax No: +357 22400809

E-mail: director@dl.mlsi.gov.cy

Website: <http://www.mlsi.gov.cy/dl>

IV. Failure to comply with the prescribed terms and conditions of employment

Cases of failure to comply with the prescribed terms and conditions of employment in Cyprus and possible cases of illegal transnational activities can be reported to the following address:

Director

Department of Labour

Ministry of Labour, Welfare and Social Insurance.

9, Klimentos street

1480 Nicosia Cyprus

Tel. No: +357 22400802

Fax No: +357 22400809

E-mail: director@dl.mlsi.gov.cy

Website: <http://www.mlsi.gov.cy>

V. Situations constituting a posting [Article 1 of the Directive]

Law No 137(I) of 2002 on the posting of workers in the framework of the provision of services applies to undertakings which take one of the following transnational measures:

- a) Post a worker, on their account and under their direction, in the territory of Cyprus, under a contract concluded between the undertaking making the posting and the receiver of the services operating in Cyprus, provided there is an employment relationship between the sending undertaking and the worker, during the period of posting.
- b) Post a worker, in the territory of Cyprus, to an establishment or to an undertaking owned by the group to which the undertaking making the posting is a member, provided there is an employment relationship between the sending undertaking and the worker, during the period of posting.
- c) Act as a Temporary employment undertaking or placement agency to hire out a worker to a user undertaking established or operating in the territory of Cyprus provided there is an employment relationship between the temporary employment undertaking or the placement agency and the worker, during the period of posting.

More information can be found on the website of the Department of Labour:

http://www.mlsi.gov.cy/mlsi/dl/dl.nsf/dmllegislation_en/dmllegislation_en?OpenDocument

VI. Posted workers [Article 2 of the Directive]

Directive 96/71/EC applies to workers who, for a limited period of time, carry out their work on the territory of a Member State other than the State in which they normally work.

In Cyprus, for the purposes of Law No 137(I) of 2002, a worker is understood to be any person working for another person either under an employment contract or under circumstances from which the existence of an employer and worker relationship can be gathered, irrespective of that person's title in the country of origin.

According to the case law of the Court of Justice of the European Communities, the temporary nature of an activity carried out on the territory of a Member State in the context of free provision of services cannot be determined abstractly but should be judged on a case-by-case basis, depending on the duration, frequency and periodicity or continuity.

It should be noted that in Cyprus, if an occupational activity can no longer be considered as being exercised temporarily according to the above-mentioned criteria, but is instead stable and continuous, then *all* the binding rules and regulations that are in force in Cyprus apply.

More information can be found on the website of the Department of Labour:

http://www.mlsi.gov.cy/mlsi/dl/dl.nsf/dmllegislation_en/dmllegislation_en?OpenDocument

VII. Work periods and rest periods [Article 3(1)(a) of the Directive]

According to the Organisation of Working Time Law of 2002-2007, employees' working time in any week may not exceed the 48 hours on average, including overtime. It is specified though, that more

favourable arrangements arising from other Laws or Regulations, personal or collective agreements are not affected by the provisions of the above mentioned Law.

Whether someone will work 38 or 40 hours or more a week is a matter governed by the applicable collective agreement or agreement between the two parties with the exception of the following categories of professions regulated by special legislation:

- a) For shop employees the working time is 38 hours per week (maximum 46 hours per week including overtime).
- b) For clerks, messengers or office employees in general the maximum working time is 44 hours per week (including overtime) or 8 hours daily.
- c) For metal extraction employees working under the earth surface the working time is 40 hours per week (including overtime) or 8 hours daily and for metal employees working on the surface and mine employees is 44 hours per week (including overtime) or 8 hours daily.

All employees are entitled to at least 4 weeks annual leave. More specifically, those working five days a week are entitled to a minimum of 20 working days annual leave and those working six days a week are entitled to a minimum of 24 working days annual leave.

All employees are entitled to at least 11 uninterrupted hours of rest each day and a minimum period of 24 uninterrupted hours of rest weekly.

More details can be found on the website of the Department of Labour Relations:
www.mlsi.gov.cy/mlsi/dlr/dlr.nsf/dmlindex_en/dmlindex_en?OpenDocument

VIII. Paid annual holidays [Article 3(1)(b) of the Directive]

Under the Organisation of Working Time Law (Law No 63(I)/2002) all workers are entitled to annual leave with pay of at least four weeks, in accordance with the terms provided for by legislation or collective agreements and/or practice related to this right and to the provision of the annual leave. More specifically, in accordance with the Annual Holidays with Pay Laws of 1967 to 2005 all workers employed on the basis of a five-day working week must be granted at least 20 days of annual leave with pay, and all workers employed on the basis of a six-day working week must be granted at least 24 days of annual leave with pay.

It should be noted that the above-mentioned Laws refer to the minimum annual leave to be granted; more favourable provisions may be provided for through collective agreements.

More information can be found on the website of the Department of Labour Relations and on the website of the Social Insurance Services:

http://www.mlsi.gov.cy/mlsi/dlr/dlr.nsf/dmlagreements_gr/dmlagreements_gr?OpenDocument
http://www.mlsi.gov.cy/mlsi/sid/sidv2.nsf/page16_gr/page16_gr?OpenDocument

IX. Pay [Article 3(1)(c) of the Directive]

Wage by Law is only determined for the occupations covered by the Minimum Wage Order which was revised annually by an Order of the Ministerial Council that comes into force on 1 April of each year until 2012. As from 2013 it remained unchanged.

According to the Minimum Wage Order of 2012, the minimum monthly wage upon recruitment was revised to €70, while the minimum monthly wage for employees, who have completed a six month period of employment at the same employer, was revised to €24.

The above mentioned wage applies to the occupations of shop assistants, clerks, child-care workers (assistant baby and child minders), and personal care workers (nursing assistants).

The minimum wage for security guards, was revised to an hourly rate of €4.90 gross and upon completion of a six month period of employment at the same employer is increased to €5.20 gross. The hourly rate of pay for newly recruited cleaners is €4,55 and upon completing six months of employment at the same employer is increased to €4,84.

As regards any other occupation that is not covered by the Minimum Wage Order the wage is determined either by a collective agreement or by an agreement between the employer and the employee upon recruitment.

Compensation of overtime work is determined by Law only for shop employees and hotel and catering employees. For any other occupation the overtime pay is determined either by a collective agreement, or by an agreement between the employer and the employee upon recruitment.

Shop employees: up to 2 hours overtime daily and up to 8 hours weekly

- Their overtime work is compensated as follows:
- Afternoon or morning offs, as defined in the working time schedule: each working hour is compensated as two working hours (1:2)
- Public holidays: each working hour is compensated as two working hours (1:2)
- Sundays: each working hour is compensated as two working hours (1:2)
- Other days: each working hour is compensated as one and a half working hour (1:1½)

Hotel employees: up to 9 hours weekly

Catering employees: up to 8 hours weekly

In both hotel and catering employees overtime work is compensated as follows:

- Public holidays: each working hour is compensated as two working hours (1:2)
- Other days: each working hour is compensated as one and a half working hour (1:1½)

More information can be found on the website of the Department of Labour Relations:
http://www.mlsi.gov.cy/mlsi/dlr/dlr.nsf/dmlagreements_gr/dmlagreements_gr?OpenDocument

X. Rules concerning hiring-out of workers and the terms and conditions applying to temporary workers [Article 3(1)(d) and (9) of the Directive

The legal framework which regulates the employment relationship between. Temporary work Agency and temporary workers is the Temporary Agency Work Law of 2012 (Law No.174/2012) and Regulations of 2012 (Reg 517/2012).

The purpose of the Temporary Agency Work Law of 2012 is to ensure the protection of temporary agency workers and to improve the quality of temporary employment through the principle of equal treatment and recognition of temporary agencies as employers. The purpose of the Regulations of 2012 is to regulate the terms and conditions for the implementation of the licensing system, certification and inspection of temporary agencies.

Among other requirements regarding the establishment of Temporary Work Agency (TWA) is the Deposit of bank guarantee amounting to €100.000 to the competent authority.

The Law provides for the assignment and conditions of employment of temporary workers. Specifically the employment contract must be maximum 4 months initially, with the possibility of written renewal for the same user undertaking for a specified period which if added to the duration of the original assignment will not exceed a total period of 12 months.

Finally The Law prohibits the employment of temporary workers in the Republic in the Construction and Tourism Sectors.

More information can be found on the website of the Department of Labour:

http://www.mlsi.gov.cy/mlsi/dl/dl.nsf/dmllegislation_en/dmllegislation_en?OpenDocument
<http://www.mlsi.gov.cy/mlsi/dl/dl.nsf/dmlissu2-gr?Opendocument>

XI. Health, safety and hygiene at work [Article 3(1)(e) of the Directive]

Law 89 (I) of 1996 (as last amended by Law (33(I)/2003) covers all branches of economic activity and imposes duties on employers, self-employed persons and employees, and on designers, manufacturers, importers and suppliers of articles and substances for use at work aiming to safeguard the safety, health and welfare of persons at work.

The duties of employers and self-employed persons are not restricted to the protection of persons at work; they extend to cover also other persons (non-employed) likely to be affected by activities of persons at work. Furthermore, the general duties of employers are not restricted to the provision and maintaining of safe and healthy places of work and safe plant and equipment, they also impose requirements on employers to provide safe systems and safe methods of work as well as information, education and supervision of workers relating to safety and health at work issues.

Compliance with requirements imposed by law is based on the principles of prevention as provided for in the Framework Directive 83/391/EEC. These principles include the avoidance of risks, the evaluation of risks which cannot be avoided, combating risks at source, adaptation of work to the individual, adaptation to technical progress, replacing the dangerous by the non-dangerous or less dangerous, the development of a coherent prevention policy, giving collective protective measures priority over individual protective measures and giving appropriate instructions to the workers.

Finally, the Legislation empowers Inspectors to issue Notices prohibiting specified work activities or the operation of specified plant, equipment, and premises, when there is an imminent and serious risk to the safety and health of persons.

More information can be found on the website of the Department of Labour Inspection:

http://www.mlsi.gov.cy/mlsi/dli/dli.nsf/dmlsafety_en/dmlsafety_en

XII. Rules concerning the terms and conditions of employment of pregnant women and women who have recently given birth [Article 3(1)(f) of the Directive]

Maternity rights are secured through the “Maternity Protection Law” (No 100(1)/1997, as last amended by Law No 70(I)/2011).

An employed woman who presents a certificate from a registered medical practitioner stating the expected week of her confinement is entitled to maternity leave. Maternity leave is provided for 18 weeks, of which 11 weeks must compulsorily be taken during the period beginning the two weeks prior to the week of the expected delivery.

An employed woman who adopts or takes in to her care a child less than 12 years of age for the purpose of adoption is allowed maternity leave of 14 weeks.

- During maternity leave the employed woman is allowed a grant.
- The employed woman is protected against termination or notice of termination of employment during the period starting when she notifies her employer of her pregnancy and ending 3 months after maternity leave. This does not apply in cases where the employed woman is found guilty of a misdemeanour, or the business at which she is employed closes down or the contract period has expired and the non-renewal of the contract is not related to the pregnancy.
- Women who gave birth and are breastfeeding or have increased responsibilities for the care/raising of the child, can, for a nine-month period commencing on the date of birth (or maternity leave in the case of adoptive mothers), interrupt their employment for one hour or go to work one hour later or leave work one hour earlier. The one-hour excuse period is considered working time and paid as such.

More information can be found on the website of the Department of Labour:

http://www.mlsi.gov.cy/mlsi/dl/dl.nsf/dmllegislation_en/dmllegislation_en?OpenDocument

In addition to the above, the safety and health of pregnant women, women who have recently given birth as well as nursing women in Cyprus is covered by the Maternity Protection (Safety and Health at Work) Regulations of 2002 (P.I.255/2002), as enforced by the Department of Labour Inspection.

XIII. Rules concerning the terms and conditions of employment of children and young people [Article 3(1)(f) of the Directive]

The Protection of Young People at Work (Law No 48(I) of 2001) provides for the Protection of Young Persons at work, was amended by the Law 15(I)/2012. Moreover Regulations (Reg.No. 78/2012) have been enacted in order to set limitations in relation to the procedure to be followed for granting permit to children to participate in cultural activities, including reference to their hours of work, types of work, submission of complaints etc. More specifically:

Under this legal framework the minimum age of admission to employment is the 15 years unless in cases of participation in cultural and related activities (e.g. theatre or TV show) and in engaging in general, vocational or technical education. In both cases a permit is needed.

According to the above legislation the occasional or short term domestic work is prohibited. However the occasional or short term work which is considered as not being harmful, damaging or dangerous to adolescents in a family undertaking is excluded from the scope of application of the legislation.

The maximum weekly working hours are 36 for children and 38 for adolescents (over 15 years of age and under 18). Employment of children between 19.00 one day and 07.00 the following day is prohibited. For adolescents the period of prohibition is limited between 23.00 and 07.00. Daily rest is 14 hours for children and 12 hours for adolescents. Weekly rest is 48 hours and in accordance with the relevant provisions of the Regulations.

More information can be found on the website of the Department of Labour:

http://www.mlsi.gov.cy/mlsi/dl/dl.nsf/dmllegislation_en/dmllegislation_en?OpenDocument

In addition to the above, the safety and health of young persons at work in Cyprus is covered by the The Safety and Health at Work (Protection of Young People) Regulations of 2012 (P.I. 77/2012), as enforced by the Department of Labour Inspection.

XIV. Equality and non-discrimination [Article 3(1)(g) of the Directive]

Law No 205(I) of 2002 "on equal treatment of men and women in employment, vocational training and promotion and working conditions" covers, among others, the issues of positive action, gender-based advertising and sexual harassment. It also provides relevant effective remedies for breaches of the principle of equality at all stages of the employment relationship, including, among others, access and conditions to employment, promotions and benefits relating to the job position.

The principle of equal treatment in employment on the grounds of religion or belief, disability, age, racial or ethnic origin and sexual orientation is safeguarded by the relevant legislation, Law No 58(I) of 2004 "on equal treatment in employment and occupation, and Law 57(I) of 2004 "on people with disabilities (Amendment)".

Legislation prohibits direct and indirect discrimination, harassment and instruction to discriminate and apply to all persons in both public and private sectors, in relation to conditions for access to employment, vocational guidance and vocational training, working conditions and access to membership of, and involvement in, an organisation of workers or employers. It also provides for positive action, the reversal of the burden of proof and protection from less favourable treatment due to the submission of a complaint.

More information can be found on the website of the Department of Labour:

http://www.mlsi.gov.cy/mlsi/dl/dl.nsf/dmllegislation_en/dmllegislation_en?OpenDocument

XV. Terms and conditions of employment concerning other matters [Article 3(10) of the Directive]

There are no such terms and conditions of employment.

XVI. Procedural and administrative requirements

Undertakings subject to the legislation on the posting of workers are obliged to submit the following information to the Ministry of Labour and Social Insurance, before the posting: Name, address and legal entity of the undertaking, the legal representative of the undertaking and representative in Cyprus (if such a representative exists), place of work of posted workers, date of commencement of the provision of services, duration of posting, nature of activity and personal details of posted workers.

In the event of changes, undertakings have to submit revised information within 15 days.

More information can be found on the website of the Department of Labour:

http://www.mlsi.gov.cy/mlsi/dl/dl.nsf/dmllegislation_en/dmllegislation_en?OpenDocument

XVII. Mediation mechanisms in cases of conflict

In cases of conflict, the grievance may be submitted to the Department of Labour Relations. If the dispute refers to the non-application of labour legislation then a complaint may be made by the interested party, and the Department's inspectors will undertake to examine the issue.

If the dispute refers to the conclusion of a new collective agreement or the renewal of an existing collective agreement (Disputes over interests), and direct negotiations have reached a deadlock, then the trade union involved may submit an application to the Department of Labour Relations requesting it to mediate in the dispute, in accordance with the Industrial Relations Code. The same procedure applies in the case of Disputes over rights (i.e. disputes arising from the interpretation or implementation of an existing collective agreement or of existing conditions of employment, or arising from a personal complaint, including a complaint over dismissal).

The Industrial Relations Code, referred to above, is a voluntary agreement signed between the social partners in 1977; it lays down the agreed procedures for conflict resolution.

More information can be found on the website of the Department of Labour Relations:
http://www.mlsi.gov.cy/mlsi/dlr/dlr.nsf/dmlmediation_en/dmlmediation_en?OpenDocument

XVIII. Information on judicial enforcement procedures

Information on possible judicial remedies in Cyprus can be obtained from the following address:

Director
Department of Labour
Ministry of Labour, Welfare and Social Insurance.
9, Klimentos street
1480 Nicosia Cyprus
Tel. No: +357 22400802
Fax No: +357 22400809
E-mail: director@dl.mlsi.gov.cy
Website: <http://www.mlsi.gov.cy/dl>