

KRS: New Regulation of Absentee Pay More Favourable For Employees

According to the expert of Kovács Réti Szegheő Attorneys at Law, the interpretation disputes may cease with the adoption by the National Assembly of Act CIII of 2013 on the amendments related to the computation of absentee pay and the regulation of public funds. In the opinion of Dr. Mónika Kapetz, as consequence to the amendment, for instance, employees entitled to disability benefits or personal contribution for the blind, five days of additional vacation shall be granted, while the regulation of absentee pay shall be more favourable for the employees too.

The National Assembly specified certain significant provisions of the Labour Code so far generating interpretation disputes when adopting on 14 June, 2013 the Act CIII of 2013 on the Amendment Related to the Computation of Absentee Pay and the Regulation of Public Funds; the act was promulgated on 24 June – initially elaborated the expert of Kovács Réti Szegheő Attorneys at Law.

The act amends the Labour Code not only in respect of the absentee pay, but specifies several other rules, for instance, it was made clear how to apply the rule on fourteen consecutive days.

As a result of the amendment, for instance, five days of additional vacation shall be granted for the employee entitled to disability benefit or personal contribution for the blind, not only for those in respect of whom a body of rehabilitation experts diagnosed a degree of health impairment of at least 50 per cent.

Interpretation of Fourteen Consecutive Days Was Problematic

Dr. Mónika Kapetz reminded that in respect of scheduling holiday, the interpretation of fourteen consecutive days was problematic. Pursuant to the amendment, it has become clear that the vacation shall be so scheduled that the employee, once a calendar month, shall be relieved from his/her obligation to carry out work and be available. In this respect, however, in addition to the days scheduled for vacation, the weekly rest days (weekly rest period), public holidays and vacation due to uneven working arrangement may also be taken into consideration.

In relation to carrying over vacation for the following year, the Labour Code was so amended that the employer and the employee may agree only in respect of the additional vacation due to age to schedule these until the end of the year subsequent to the year when due.

The law has also made it clear that this agreement may not be a general one; parties shall conclude it for a certain calendar year. Pursuant to this rule, for employees not having reached the age of 39, the number of days that may be carried over shall decline.

How to Compute the Amount of Base Wage For One Hour?

The provision on determining the base wage due for one hour was also modified. When calculating the amount of personal base wage due for a determined period, the amount of the monthly base wage due for one hour, according to the regular working arrangement shall be



multiplied by the number of hours to be performed within such determined period according to the regular working arrangement.

Consequently the basis for computing the wage supplement has been modified too. The basis of computation – unless otherwise agreed – shall be the employee's base wage due for one hour. At the determination of the basis of computation, the amount of the monthly average wage – instead of the previously presented computation method – shall be divided by 174 hours in case of regular full-time working hours, while the commensurate portion of 174 hours in case of part-time or irregular full-time working time, highlights the expert of Kovács Réti Szegheő.

New Provisions For Absentee Pay Are More Favourable For Employees

As a matter of significance, the provisions on absentee pay were also determined more accurately. After the amendments have taken effect, the absentee pay shall be so determined as to take into account (a) the base salary valid at the time when it is due (Section 136), flat wage supplement (Section 145), (b) (ba) the performance-based wage (Section 150) (bb) the wage supplement (Section 151) paid for the last six months prior to the due date.

The due date has also been determined: (i) the initial day of absence (ii) in respect of severance pay either the time when the employee gave notice of termination or under sub-paragraph b) and c) of Section 77 (1) of the Labour Code, the time of termination of the employment relationship, (iii) in case of establishment of liability for damages, the time when the damage incurred, or if the employment relationship was terminated earlier, the time of termination of the employment.

The base wage and flat wage supplement portion of the absentee pay may be performed and settled through the payment of the monthly or hourly wage and flat wage supplement for the period of absence.

Sunday Supplement Also Included

Dr. Mónika Kapetz called the attention that in respect of taking wage supplement into account during the calculation of absentee fee, Sunday supplement as a novelty was added, which shall be taken into account if the employee has performed work at least in one-third of the Sundays according to his/her scheduled working time.

Pursuant to the above, the possibility that the remuneration due for holiday be changed depending on the number of working days and the period of absence, has been eliminated therefore the employees no longer have to calculate in advance, in which month to take vacation in order to be paid the most wage. The new regulation, furthermore, is more favourable for employees employed in uneven working arrangement too.

The amendments are to take effect as of 1 August, 2013 however, the modification in respect of the carrying over of vacation and determining the flexible working arrangement will be effective only from the first day of 2014 – concluded the expert of Kovács Réti Szegheő Attorneys at Law.