

New rules for employee reservation in Ukraine

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Starting from 1 December 2024, new rules for reserving employees will come into force in Ukraine. Also, the approaches to recognising enterprises as critical to the functioning of the economy and the vital activity of the population during a special period have changed.

1. Updated criteria for critical enterprises

Key novelties:

- the decision of local communities to grant an enterprise the status of a critical one is now subject to mandatory approval by the Ministry of Economy and the Ministry of Defence;
- new requirements for employee salaries: for privately owned enterprises, the minimum salary threshold for employees to be reserved is UAH 20,000 (approx., USD 480) for the latest quarter;
- automatic extension of the status for enterprises whose designation as critical enterprises expires before 30 November 2024. They are entitled to retain this status until 31 December 2024;
- mandatory confirmation of the status: by 28 February 2025, all companies are required to confirm their status as critical in accordance

- with the new criteria;
- the possibility of losing the status in case of arrears in the payment of taxes, unified social tax or other mandatory payments.

2. How the previously granted deferments work

Deferments granted prior to the introduction of the new rules will remain in force until their expiry date, but no longer than 28 February 2025. This applies to deferments granted both by decisions of the Ministry of Economy and through the Unified State Electronic Services Web Portal.

Deferments granted prior to the introduction of the new rules may be cancelled regardless of these deadlines in the event of:

- expiry of the deferment period;
- the company completing the production of goods, performance of works and provision of services to meet the needs of the Armed Forces or other military formations;
- deprivation of the enterprise of its critical status;
- liquidation of the enterprise;
- dismissal of an employee from the enterprise (except for dismissal with subsequent appointment to another position within the same enterprise);
- temporary termination of an employee's employment contract with the company;
- a substantiated request from the head of the company;
- granting a deferment for other reasons specified by law;
- failure of the mine action operator to carry out demining (humanitarian demining) within 6 months according to a certified process (processes) based on information provided by the Mine Action Centre.

3. New requirements for employees to obtain a deferment

Updated requirements for employees who can be reserved:

- an employee must be registered with the military;
- the employer must be included in the Unified List of Critical Enterprises;
- the employee's salary for the latest quarter must meet the established criteria – at least UAH 20,000 (approximately USD 480);
- all the employee's details must be updated;
- the employee is not on the wanted list for avoiding call-up.

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4. Maximum validity term of deferments

An employee can be reserved for a fixed term:

- the duration of the contract – for companies that fulfil the needs of the Armed Forces of Ukraine;
- no more than 12 months – for other critical enterprises.

5. Scope of employee reservations

No more than 50% of the total number of employees of a critical enterprise can be reserved.

No more than 50% of employees can also be reserved at representative offices of donor agencies implementing international technical assistance projects. In this case, only those employees who are directly involved in the implementation of the project tasks are subject to reservation. This must be confirmed by internal documents (order, job description, etc.).

A similar rule is established for permanent representative offices of non-residents (foreign companies, organisations) operating in Ukraine (representative offices of foreign business entities, non-governmental organisations of other countries, international non-governmental organisations).

The rules for permanent representative offices of foreign media are different:

- permanent representative offices with no more than 15 employees may reserve all persons liable for military service;
- in permanent representative offices with more than 15 employees, 15 employees plus no more than 50% of remaining employees can be reserved.

No more than 50% of the total number of employees liable for military service may also be reserved by the Ukrainian Red Cross Society and other Ukrainian non-governmental organisations implementing humanitarian projects at the expense of international partners.

In any case, a reservation of more than 50% of employees liable for military service is possible only by a separate decision of the Minister of Defence.

The total number of employees liable for military service in critical enterprises does not include women liable for military service.

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If an enterprise has only one employee liable for military service, the restrictions do not apply.

6. How to apply for a deferment at present

New reservation lists will be accepted exclusively through the Diia platform. The system provides for automated processing of applications, which takes up to 72 hours.

In case of technical problems, it is possible to submit a paper application. Paper applications are submitted to the authority that made the decision to recognise the enterprise as critical.

If a representative office of a donor agency implementing international technical assistance projects does not have a USREOU code, their employees are reserved through the Diia platform according to lists compiled by an authorised person of the Ministry of Economy based on a submission from the Secretariat of the Cabinet of Ministers of Ukraine.

The lists submitted for reservation shall contain the following:

- information about the critical enterprise: full name of the legal entity or a its separate structural subdivision;
- USREOU code of the legal entity or its separate structural subdivision (if any);
- location of the legal entity or its separate structural subdivision;
- surname, name, patronymic of the head of the legal entity or its separate structural subdivision;

in respect of a person liable for military service: surname, name, patronymic;

registration number of the taxpayer's registration card or series and number of the passport of a citizen of Ukraine (if the employee has refused to have a registration number of the taxpayer's registration card due to his/her religious beliefs and has a relevant mark in the passport);

the term of the deferment.

After checking the mentioned data for compliance, the information about the deferment will be reflected in the military record of the reserved employee in electronic form.