

## Amendments to the procedure of issuing work permits for foreigners

On 23 May 2017, the Verkhovna Rada of Ukraine adopted the Law of Ukraine On Amending Several Legislative Acts of Ukraine regarding Eliminating Barriers to Attract Foreign Investment, which introduces major amendments to the Law of Ukraine On Employment. The Law shall enter into force on 27 September 2017.

In particular, the list of documents to be submitted for foreigners applying for a work permit has been amended. Now, the employer must submit the following documents:

- an application in which the employer confirms that the applicable Ukrainian laws do not require Ukrainian citizenship as a prerequisite for the position to be occupied by a foreign national and that such a position does not grant access to state secrets;
- a copy of the foreign national's passport (pages with personal data) with its translation into Ukrainian;
- a passport photo of the foreigner in colour of size 3.5 x 4.5 cm.

Depending on the category the foreign national belongs to, the following documents shall be additionally submitted:

- for all categories of foreign employees – a copy of the draft employment agreement with the foreign national certified by the employer;
- for employed founders (shareholders) or ultimate beneficial owners (controllers) of the legal entity – the employment office shall on its own collect the information on whether the authorized capital of the company has already been formed at the time of applying for the work permit;
- for graduates from the universities, listed in the top 100 of a renowned ranking of the world's best universities – a copy of the university diploma, duly legalized and translated into Ukrainian, the translation being properly certified;
- for foreign employees of artistic professions – notarized copies of the documents identifying the object of the copyright and (or) copyright-like rights of the author and certifying the copyright;
- for foreign IT professionals – the competent authority shall on its own collect the information on whether software development is included in the registered activities of the employer;
- for foreign posted employees – a copy of the agreement (contract) concluded between the Ukrainian company and the foreign company providing for employment of foreign nationals or stateless persons posted by the foreign employer to Ukraine to carry out a scope of work (service);
- for intracompany transferees – a resolution of the foreign company on the transfer of the foreign national or stateless persons to Ukraine and a copy of the agreement on the transfer to Ukraine concluded between the foreign national or the stateless person and the foreign company, indicating the time period of work in Ukraine;
- for foreign nationals or stateless persons in respect of which a decision on granting refugee status or subsidiary protection has been taken – a copy of the decision on granting refugee status or subsidiary protection and of the

document certifying claiming asylum in Ukraine.

The following documents have been removed from the list:

- a certificate of good conduct;
- a statement of the company confirming that applicable Ukrainian laws do not require Ukrainian citizenship as a prerequisite for the position to be occupied by a foreign national and that such a position does not grant access to state secrets (from now on the corresponding confirmation shall be stated in the text of the application);
- a diploma (except for the cases where the work permit is applied for graduates from the universities, listed in the top 100 of a renowned ranking of the world's best universities);
- a medical certificate from a health care institution certifying that a foreign national does not suffer from chronic alcoholism, drug addiction or infectious diseases.

In addition, a new minimum pay rate is set for foreign employees:

- five statutory minimum wages (about UAH 16,000 per month in 2017) – for foreign employees in non-governmental organizations, non-profit organizations and educational institutions;
- ten statutory minimum wages (about UAH 32,000 per month in 2017) – for all other groups of foreign employees.

However, the minimum wage requirements do not apply to the following groups of foreign employees: high-paid foreign employees (foreign nationals whose pay is at least 50 minimum wages), employed founders or shareholders or ultimate beneficial owners (controllers) of the legal entity, graduates from the universities, listed in the top 100 of a renowned ranking of the world's best universities, included in the list of university rankings, approved by the Cabinet of Ministers of Ukraine, foreign employees of artistic professions, foreign IT professionals.

The fee schedule for granting work permits has also been amended. From now on, the fee will depend directly on the subsistence minimum and the time period for which the work permit is granted:

- six subsistence minimums (UAH 9,600 in 2017) – for work permits issued for a period of one to three years;
- four subsistence minimums (UAH 6,400 in 2017) – for work permits issued for a period of six months to one year;
- two subsistence minimums (UAH 3,200 in 2017) – for work permits issued for a period of up to six months.

Moreover, it is proposed to change the term of work permits and to set it depending on the category of foreign employees:

- for the duration of the employment agreement, but for a maximum of three years – for high-paid foreign employees, founders or shareholders or ultimate beneficial owners (controllers) of the legal entity, graduates from the universities, listed in the top 100 of a renowned ranking of the world's best universities, included in the list of university rankings, approved by the Cabinet

- of Ministers of Ukraine, foreign employees of artistic professions, foreign IT professionals;
- for the duration of a foreign economic agreement, but for a maximum of three years – for foreign posted employees;
  - for the duration of the resolution of the foreign company on the transfer of the foreign national or stateless persons to Ukraine and a copy of the agreement on the transfer to Ukraine concluded between the foreign national or the stateless person and the foreign company – for intracompany transferees;
  - for the duration of the employment agreement, but for a maximum of one year – for all other foreign employees.

The law also regulates conditions of taking a second job. Thus, if a second job is taken by a high-paid foreign specialist, no work permit is required, provided that the duration of the employment agreement for the second job does not exceed the duration of the work permit granted for the main occupation.

All other foreign employees may, in addition to the main occupation for which the work permit has been granted, take a second job without a work permit to replace a temporarily absent employee, provided that simultaneous occupation of several positions does not exceed 60 calendar days within one calendar year.

In all other cases, holding several concurrent positions with the same or different employers is only possible subject to obtaining a work permit for each position.