

## Update on reservation of employees liable for military service in Ukraine

On 31 January 2023, the Cabinet of Ministers of Ukraine adopted Resolution No. 76 "Certain Issues of Implementation of the Law of Ukraine "On Mobilisation Preparation and Mobilisation" on Reservation of Persons Liable for Military Service for the Period of Mobilisation and Wartime". The Resolution approved a new procedure (hereinafter – the "Procedure") for reservation of persons liable for military service and criteria for determining enterprises, institutions, and organisations critical to the functioning of Ukraine's economy and ensuring the vital activity of the population.

According to the Procedure, reservation is possible for persons liable for military service if they are employed:

- in state authorities and other state bodies of Ukraine;
- in local public authorities;
- at enterprises, institutions, and organisations that have been assigned mobilisation assignments (orders);
- at enterprises, institutions, and organisations engaged in the production of goods, performance of works and provision of services necessary to meet the needs of the Armed Forces of Ukraine and other military structures;
- at enterprises, institutions, and organisations that are critical to the functioning of the Ukrainian economy and the population's vital needs during a special period.

In order to reserve employees liable for military service, a company shall draw up a list and submit it to the relevant government authority. The list shall be submitted in the form set out in Annex 1 to the Procedure in paper or electronic form (in Excel and PDF formats), together with the relevant justification and a statement of the number of persons liable for military service in the form set out in Annex 2 to the Procedure.

According to the Procedure, managers and deputies, as well as 50% of employees (as of the date of submission of the list) liable for military service are subject to reservation for the following institutions and organisations:

- that have been assigned mobilisation tasks (orders), if it is necessary for the fulfilment of the assigned mobilisation tasks (orders);
- that produce goods, perform works and provide services necessary to meet the needs of the Armed Forces of Ukraine and other military structures;
- that are critical to the functioning of the economy and the vital needs of the population during a special period.

If warranted, the number of employees subject to reservation may exceed 50% of the number of persons liable for military service at the enterprise as of the date of submission of the list.

Employees liable for military service in the fuel and energy sector, whose list is approved by the Ministry of Energy of Ukraine, are subject to reservation

regardless of their military rank, age, and military speciality.

Such enterprises are not subject to restrictions on the number of employees eligible for reservation.

Also, from now on, enterprises that are critical to the economy and the vital functions of the population will be able to book employees in non-scarce military specialities. Previously, this option was available only to companies that performed mobilisation orders. With this in mind, clear criteria for determining critical enterprises have been developed and approved.

To be recognised as a critical enterprise, a company must meet at least three of the following seven criteria:

- the total amount of taxes, duties, payments to the state and local budgets (excluding customs duties) exceeds the equivalent of EUR 1.5 million;
- the amount of foreign currency revenues (excluding loans and borrowings) exceeds EUR 32 million;
- the company is of strategic importance for the economy and state security in accordance with Resolution of the Cabinet of Ministers of Ukraine "On Approval of the List of State-Owned Property Objects of Strategic Importance for the Economy and State Security" No. 83 dated 4 March 2015;
- the company is of importance for the national economy or for meeting the needs of the local community (the criteria are determined by the central authorities or regional military administrations);
- absence of arrears in the payment of the unified social tax;
- the average salary of the insured employees in the company for the last calendar quarter is not lower than the average salary in the region for the reporting period;
- the company is a Diia City resident.

Based on compliance with two of the criteria mentioned above, the following enterprises may be recognised as critical:

- fuel and energy sector;
- operating in the field of healthcare, education and science, physical education and sports, social protection and belonging to the state or municipal form of ownership with inclusion in the Register of non-profit institutions and organisations or maintained at the expense of the state or local budget, or those providing free services to the population necessary to ensure the vital functions of the population on a regular basis;
- linear audio-visual media (on-air terrestrial multichannel (digital) television broadcasting with information and/or analytical content);
- state and municipal cultural institutions.

Critically important enterprises also include UN agencies, foreign diplomatic missions in Ukraine, representative offices of donor agencies, implementers of international technical assistance projects, representative offices of international organisations, international and Ukrainian non-governmental organisations that carry out humanitarian projects funded by international partners that are critical to the functioning of the economy and the livelihoods of Ukraine's population during a special period. Employees of these institutions and organisations are subject to reservation regardless of their military rank, age, or military speciality.

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In this case, no restrictions on the number of persons liable for military service subject to reservation apply.