

## Labour protection and fire safety rules in Ukraine

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### 1. General provisions

Ukrainian legislation on labour protection consists of the Law of Ukraine "On Labour Protection" (which applies to all legal entities and individuals who use hired labour in accordance with the law and to all employees) and many bylaws (labour protection regulations, resolutions of the Ukrainian Government, sanitary standards, orders of ministries that clarify the provisions of this law).

Labour protection in Ukraine is a system of legal, socio-economic, organisational, technical, sanitary, hygienic, and preventive measures and means aimed at preserving human life, health and working capacity at labour activity. Under Ukrainian labour protection legislation, when entering into employment agreements (except for remote work and home-based work agreements), an employer must inform an employee against his/her signature about the working conditions and the presence of hazardous and harmful production factors in the workplace that have not yet been eliminated, the possible consequences of their impact on health, and the employee's rights to benefits and compensation for working in such conditions pursuant to the law and the collective agreement.

At the same time, employees may not be offered work that is medically contraindicated for their health. Only persons who have passed a psychophysiological examination are allowed to perform high-risk work and work requiring professional selection.

### 2. Who is responsible for labour protection?

At the first stage of organising labour protection at an enterprise, the relevant department is established or an authorised person is appointed. Under the Model Regulations on the Occupational Health and Safety Department, at an enterprise

with more than 50 employees establishing such a department is mandatory. The Provision on the Occupational Health and Safety Department of this enterprise must be developed, defining the department structure, size, main tasks, functions, and rights of its staff.

At enterprises with fewer than 50 employees, the functions of the occupational health and safety department may be performed by appropriately trained persons, on a part-time basis. For enterprises with fewer than 20 employees, third-party specialists with at least 3 years of work experience and labour protection training may be contracted to perform the functions of the occupational health and safety department.

The employer is obliged to approve the relevant documents required by the labour protection legislation. Such documents must establish rules for the performance of work and behaviour of employees on the premises of the enterprise, in production facilities, at construction sites and workplaces. Instructions and other documentation on labour protection are developed by heads of structural units based on the provisions of the labour protection legislation, standard instructions, and technological documentation of the enterprise, taking into account the type of activity of the enterprise as well as specific working conditions therein.

### **3. Briefings on occupational safety and health**

Before new employees commence work, the employer is obliged to inform them about the working conditions at their workplace against their signature. In particular, employees must be informed about all the hazardous or harmful production factors that have not yet been eliminated and the possible consequences of their impact on their health, as well as about possible benefits and compensation for working in such conditions.

In addition, on hiring, all employees must undergo an introductory briefing, training, knowledge testing, initial on-the-job training, orientation, and acquisition of safe working practices at the employer's expense. Only then are employees allowed to work independently.

The introductory briefing is conducted by a labour protection professional, and the initial briefing is conducted by the employee's immediate supervisor. Subsequently, employees should be given repeated briefings (once every six months or quarterly when performing high-risk work), and the rest of the unscheduled briefings (when labour protection rules change, equipment changes or when an employee violates labour protection rules) and special-purpose briefings (in particular, for one-time work not related to their speciality). Information about the briefings should be entered in the relevant log, certified by the signature of both the person who was briefed and those who conducted the briefing.

### **4. Medical examinations of employees**

The employer is obliged to provide funding and organise preliminary (at the time of hiring) and periodic (during employment) medical examinations of employees engaged in strenuous work, work in harmful or hazardous working conditions or where there is a need for professional selection, as well as annual mandatory medical examinations of persons under the age of 21 at the employer's expense.

## 5. Financing labour protection

For enterprises, regardless of ownership, or individuals who use hired labour in accordance with the law, labour protection costs shall be at least 0.5% of the previous year's payroll.

Labour protection costs are defined in the List of Labour Protection Measures and Means approved by the Ukrainian Government by its Resolution No. 994 dated 27 June 2003. The List, in particular, includes expenses for the purchase of necessary literature; training and testing of officials and other employees on labour protection during their employment; and organisation of lectures, seminars and consultations on the above issues.

## 6. Accounting for accidents

Ukrainian employers are obliged to organise investigations and keep records of accidents, occupational diseases, and emergencies in accordance with the procedure established by law. Based on the results of such investigations, employers must draw up an act in the form of H-5 (if the accident is recognised as not related to production) or H-1 (if it is recognised as related to production). One of the copies must be given to the injured person or other interested person no later than 3 days after the end of the investigation.

## 7. Liability for violations of labour protection legislation

Legal entities and individuals who use hired labour in accordance with the law shall be subject to a fine in accordance with the procedure established by law for violating labour protection legislation and failing to comply with the orders of officials of executive authorities responsible for labour protection supervision. Payment of a fine does not relieve a legal entity or individual who uses hired labour in accordance with the law from eliminating the identified violations within a specified time frame.

The amount of the fine may not exceed 5% of the average monthly payroll of a legal entity or an individual using hired labour in accordance with the law for the previous year.

For violation of laws and other regulatory legal acts on labour protection, creation of obstacles in the activities of officials of state bodies for labour protection supervision, as well as representatives of trade unions, their organisations and associations, the perpetrators shall bear disciplinary, administrative, material, and criminal liability in line with the legislation of Ukraine.

## 8. Criminal liability

The Criminal Code of Ukraine provides for liability for, among other things, the following types of offences in respect of failure to comply with occupational safety rules:

- violation of the requirements of labour protection legislation;
- violation of safety rules during the performance of work with increased risk;

According to the Criminal Code of Ukraine, violation of the requirements of labour

protection regulations by an official of an enterprise, institution, organisation or individual entrepreneur, if such violation caused damage to a person's health, is punishable by:

- a fine in the amount of UAH 17,000 to 51,000 (approx. USD 460 to 1,385), or
- correctional labour for up to 2 years, or
- restraint of liberty for the same period.

The same violation, if it caused death or other grave consequences, is punishable by:

- correctional labour for up to two years, or
- restriction of liberty for up to 5 years, or
- imprisonment for up to 7 years with or without disqualification from holding certain positions or engaging in certain activities for up to 2 years.

## 9. Administrative liability

Administrative liability is incurred if the relevant violations do not entail criminal liability due to their nature.

Administrative liability is established for administrative offences in the field of occupational health and safety, inter alia, in the following cases:

- violation of labour and labour protection legislation;
- violation of legislative and other regulations on safe work practices in industries.

In particular, Ukrainian legislation stipulates that violation of the requirements of legislative and other regulations on labour protection entails a fine of UAH 68 to 170 (approx. USD 2 to 5) for employees. For the same offence, company officials, regardless of company ownership, and individual entrepreneurs are subject to a fine of UAH 340 to UAH 680 (approx. USD 10 to 19).

In case of violation of the established procedure for reporting (providing information) to the central executive body implementing the state policy in the field of labour protection, a fine of UAH 340 to 850 (approx. USD 10 to 25) is imposed on officials of enterprises, individual entrepreneurs who use hired labour and individuals who do not have the status of entrepreneurs and use hired labour.

## 10. Fire safety rules

Fire safety is the absence of an unacceptable risk of fire outbreak and spread and the associated possibility of harm to living beings, material assets, and the environment.

Ukrainian legislation defines the tasks and responsibilities of business entities in the field of civil protection. In particular, ensuring fire safety at an enterprise involves the following measures:

- assessing the risks of emergency situations and ensuring the implementation of civil protection measures;
- training employees in fire safety rules;

- conducting on-site training and exercises;
- implementing civil protection measures at their own expense;
- creating and using material reserves to prevent and eliminate the consequences of emergencies;
- developing measures to ensure fire safety, implementing scientific achievements and successful practices;
- ensuring compliance with the requirements of the fire safety legislation, as well as fulfilling the requirements of the relevant regulations, resolutions, and orders of the central executive body;
- maintaining civil and fire protection equipment in good working order, preventing their misuse;
- taking measures to introduce automatic equipment for detecting and extinguishing fires;
- developing and approving instructions and issuing orders on fire safety; exercising constant control over their implementation.

Pursuant to Ukrainian law, companies must develop and approve certain organisational and administrative documents aimed at preventing fires.