

Legal Alert

4/2017

EXTENSION OF THE BAN ON RETAIL SALES DURING BANK HOLIDAYS THROUGH EMPLOYEES

On 25 April 2017, Act no. 95/2017 Coll. was published in the Collection of Acts of the Slovak Republic by which the Labour Code is amended with effect **from 1 June 2017** (hereinafter the "Amendment") and which influences retail employees in a substantial manner.

The Amendment alters provision 94 (5) of the Labour Code so that it **extends the number of days for which the ban on the sale of goods to final consumers ("retail sales")** by employees applies. The employer will not be able to **order the employee or to agree with him/her on work** which involves the sale of goods to final consumers (retail sales) on stated bank holidays, on 1 January, **6 January, Good Friday, Easter Sunday, Easter Monday, 1 May, 8 May, 5 July, 29 August, 1 September, 15 September, 1 November, 17 November**, 24 December from 12.00, 25 December and **26 December** (days during which the ban on retail sales already applied before the effectiveness of Amendment are written italic).

Adoption of the Amendment caused a significant extension of the ban on retail sales from the original 3.5 to 16 bank holidays, for which employers will need to modify the organisation of work and as of 1 June 2017 they will have to adopt, in time, work allocation measures for employees in compliance with the new statutory restrictions. In particular, it is a question of employees with irregular working time allocation working at each retail plant but also of employees engaged in retail sales related work (e.g. supply). As the first bank holiday following after effectiveness of the Amendment is 5 July, sufficient time is given for the adoption of appropriate measures.

The ban on retail sales does not apply for selected retail sales under Annex no. 1a of the Labour Code (e.g. at the fuel station, at the airport) in respect of which there has been an extension of the exemption for the sale of flowers on 8 May and 1 September and the sale of flowers and objects used for the decoration of tombs on 1 November.

The stated restrictions do not apply to services (e.g. cinema services) or to entrepreneurs performing retail sales as a self-employed person. Due to this it will be interesting to monitor how the new restrictions will be managed by especially lessors of premises in shopping malls due to the effectiveness of shopping mall opening hours.

Apart from labour-related consequences of the Amendment it is necessary to bear in mind the contractual consequences resulting from contracts concluded with the lessors of business premises. Provided that the lease agreement states the plant may be open within opening days and hours of shopping mall under operation rules with no respect to statutory restrictions respectively, the rules of operation do not comply with the new statutory restrictions. As a result, the relevant provisions will need to be reviewed and negotiations with the lessor initiated to consolidate legal and factual issues.

Considering the wide discussion prior to the Amendment's adoption and citizens' knowledge, employers will need to pay strict attention to the new restrictions because it is highly likely that the relevant work inspection authorities will inspect new obligations without undue delay after the Amendment takes effect.

Contacts:

In case you have any questions with respect to the above matter, please do not hesitate to contact your contact person in our office, or Darina Cabadajová, attorney at law (darina.cabadajova@bapol.sk).

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