

Transformation of the employment and liquidation of contractual freedom in employment

Decree of the President of the Republic No. 88/1945 Coll., on general labour duty

Based on the proposal of the Government and based on the agreement with the Slovak National Council I hereby establish:

PART I. Labour duty.

Section 1 All men able to work of age from 16 to 55 and women of age from 18 to 45 may be assigned to perform work, the urgent execution of which is required based on important public interests.

[keywords: duty to work]

Section 2 The assignment pursuant to Section 1 applies with exceptions as follows:

1. military personnel on active duty;
2. persons who shall continue their activities or stay at their present place as it is necessary for the public interest;
3. university students who are duly proceeding with their studies or preparing for exams and students of public or publicly accessible secondary or vocational schools;
4. persons in regular apprentice educational relationship;
5. women from the beginning of the third month of pregnancy until the end of the third month following to childbirth, as well as women who take care of at least one child under the age of 15 and women who take care of the household themselves and take care of at least one member of such household;
6. members of foreign embassies and members of their families.

[keywords: exceptions from duty to work]

Section 3 (1) While assigning a person to a work according to Section 1, personal, economic, and social circumstances of the assigned person shall be duly considered; if possible, professional training and previous employment should also be taken into account. Women can only be assigned to jobs that are usually performed by women.

(2) Married persons are to be assigned only if there are not enough suitable single persons.

(3) First of all, it is necessary to assign persons who do not perform a job (profession) or are not fully employed. Persons in permanent employment where they are subject

to compulsory health insurance and who actually work or run an independent trade or profession approved by the authority or duly notified to the authority, can only be assigned if there is not enough other workforce. The current employer must be heard before assigning persons in the employment.

(4) The Ministry of Protection of Labour and Social Welfare will agree with the relevant central authority on the release of public employees for assignment.

(5) Persons to be assigned to work must be medically fit for specific work. In case of doubt, the physician of the district office of protection of labour or another official physician from the public health service shall assess the fitness.

[keywords: circumstances of the person assigned to work]

Section 4 (1) The Ministry of Protection of Labour and Social Welfare, in agreement with the participating ministries, will establish into which districts or economic sectors, into which occupational groups, and into which individual establishments persons may be assigned to work according to Section 1 and will take measures to balance the need for labour in individual fields and areas of work.

(2) The assignment to work may last maximum of one year; this period can only be extended for urgent reasons, by a maximum of 6 months.

Amendment of Section 4 (applicable as of 21 July 1948)

Act No. 175/1948 Coll., amending the Decree of the President of the Republic on general labour duty

"The assignment to work may last maximum of one year; this period can only be extended for urgent reasons, and at most twice, each time for a period of no longer than one year."

[keywords: assignment to work]

Section 5 (1) The employer shall submit an application for assigning people to work to the district office of protection of labour in the respective district where the work shall take place. Concurrently such employer shall prove that they used all technical and organizational possibilities to save on manpower. The application shall include information on number and type of labour required, type and duration of work to be performed, information on wages and working conditions, and how proper accommodation and meals for the requested persons are ensured.

(2) The district office of protection of labour can review the need for manpower by conducting a survey in the respective establishment.

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(6) Remedies according to paragraphs 4 and 5 do not have a suspensory effect. The district office of protection of labour may grant suspensory effect in cases worthy of special consideration, in particular, if the person assigned to the job would suffer

damage hardly to compensate by immediately starting the assigned work.

(7) For serious existential or family reasons, the district office of protection of labour (branch office) can postpone the start of assigned work for a short period of time.

[keywords: assignment to work]

Section 7 A person subject to labour duty is obliged to:

1. submit all necessary documents to the district office of protection of labour (branch office) upon request and to appear in person;
2. to start the new work to which they were assigned, at the time specified in the assignment notice and submit such notice to the new employer for review;
3. perform the work assigned properly and conscientiously.

[keywords: scope of labour duty]

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Section 9 (1) The existing employment does not end with the assignment; the assigned person is considered to be on vacation in their current employment for the duration of the assignment. The period of assignment is included into period of employment in the respective employment relationship.

[keywords: assignment to work]

Section 10 (1) The employment established by the assignment is governed by private law. Remuneration and working conditions are governed by the relevant wage decree; if there is no such decree, the wage customary in the place for work of the same or similar kind shall apply.

[keywords: applicable law]

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Part II. Restrictions when negotiating and terminating employment (apprenticeship).

Section 13 (1) An employment (apprenticeship) may be agreed or terminated with legal effect - with the exception of cases specified in paragraphs 2 to 4 - only with the prior consent of the relevant district office of protection of labour. If the employment (apprenticeship) was mediated by the district office of protection of labour, such consent to start an employment is held granted.

(2) No consent is needed to agree on employment according to paragraph 1, if it concerns recruitment of:

a) employees whose employment is usually agreed for less than 7 consecutive calendar days,

b) auxiliary workers employed in emergency works in agriculture or forestry, for no more than 4 consecutive weeks,

c) persons recruited only to eliminate the state of emergency (e.g. to eliminate the consequences of a natural disaster).

(3) No consent is needed to terminate employment according to paragraph 1:

a) if both parties agree to the termination of the employment,

b) if someone is hired for a trial period or for help and if such an employment is cancelled within a month,

c) in the case of employees hired for seasonal or campaign work, after the end of such works,

d) in agricultural (forestry) establishments in the case of workers who are not employed in agriculture (forestry) by profession, but only temporarily during urgent works,

e) in the case of employment referred to in paragraph 2.

(4) After hearing the participating ministers, the Minister of Protection of Labour and Social Welfare can establish by decree published in the Official Gazette that certain types of employment can be agreed or terminated without the consent of the district office of protection of labour. Such measure may apply either generally for certain districts or economic sectors, groups of occupations, or for individual establishments.

[keywords: period of employment]

Section 14 Consent to hire an employee (apprentice) or to terminate an employment (apprenticeship) is granted by the district office of protection of labour in whose district the place of work is located. If the employee has place of residence (stay) in the territory of another district office of protection of labour, the district office of protection of labour, competent to grant such consent shall ask for a statement from such district office of protection of labour as per residence (stay) in the case of an employment (apprenticeship).

[keywords: district office of protection of labour]

Section 15 (1) While deciding on applications for granting consent to agree on or terminate an employment (apprenticeship), the district office of protection of labour shall take the following into account:

a) social conditions and professional training of the employee,

b) labour market needs,

c) importance of tasks of the participating establishments and economic sectors,

d) performance of establishments concerned.

(2) The Ministry of Protection of Labour and Social Welfare can issue guidelines and set conditions for granting consent.

(3) Granting consent to terminate an employment (apprenticeship) shall have no impact on private law claims arising from it. If, based on the applicable regulations,

the employment (apprenticeship) can be cancelled without notice period and if the competent court has not yet decided on it, the district office of protection of labour is authorized to preliminarily decide on this issue while granting the consent. If the competent court decides on the matter later and if the decision of the district office of protection of labour contradicts the judgment of the court, the district office of protection of labour will review the matter again, while being bound by the final court judgment.

[keywords: district office of protection of labour, economic circumstances]

Section 16 An employee whose employment (apprenticeship) has been terminated is obliged to immediately report this fact to the district office of protection of labour (branch office) responsible for the current place of residence (stay) or place of work.

[keywords: district office of protection of labour, termination of employment]

Section 17 The provisions of Sections 13 to 16 only apply to employment (apprenticeship) based on a private law contract.

[keywords: applicable law]

**Act No. 87/1947 Coll, on certain measures implementing national labour
forces mobilization**

The Constituent National Assembly of the Czechoslovak Republic resolved on this Act:

Part I. Purpose and means.

Section 1 (1) In order to implement the two-year economic plan, a national labour force mobilization shall be carried out.

(2) In order to implement the national labour forces mobilization, the following measures shall be applied:

- a) economic management of labour forces,
- b) integration of persons able to work and not yet working into working process,
- c) transfer of people dispensable at existing jobs to areas of urgent need,
- d) return of the skilled or trained workforce to their original occupations,
- e) increase of number of gainfully employed women,
- f) integration of persons with reduced working capacity into working process,
- g) increase of work efficiency and discipline.

(3) The national labour forces mobilization will be carried out primarily on voluntary basis. If the economic management of the labour forces, voluntary integration, as well as voluntary relocation of employees does not lead to achievement of the necessary number of workforce to implement the two-year economic plan, the relocation of employees and other measures will be carried out according to the provisions of this Act.

[keywords: two-year economic plan, national labour force mobilization]

Section 2 The Government shall establish, by a Government Decree, after hearing the unified trade union organization and the relevant central economic organizations and, for Slovakia, also after obtaining the opinion of the Board of Commissioners, the principles and procedure for the use of resources to carry out labour forces mobilization, and shall determine, in particular, from which economic areas and what number of redundant and expendable work forces shall be released and into which sectors they shall be allocated, as well as to which areas (professions) professionally educated or trained persons shall return. In the same way, the Government shall determine, in form of a Government Decree, the order of importance of individual economic sectors for assignment of voluntary or released labour forces.

[keywords: statutory delegation]

Part II. Economic management of labour forces.

Section 3 Obligations of employers.

(1) The employers are obligated

a) to make the best use of the workforce, education, and expertise of its employees, considering socio-political, health, and safety regulations,

b) to organize work in such a way that the greatest and best business results are achieved with the least possible amount of work.

(2) Employers may hire only the number of employees that, with full use of working time and full performance of employees, is absolutely necessary to fulfil work tasks, especially tasks assigned to their establishment, plant, or facility (hereinafter abbreviated as "facility") based on the two-year economic plan.

(3) If the facility employs a larger number of employees than justified according to paragraphs 1 and 2, the employer is obliged to decrease the number of employees to the extent justified according to these provisions. For this purpose, the facility shall terminate employment of redundant employees according to the provisions Sections 9 and 10.

(4) The Minister of Social Welfare, in agreement with the relevant ministers, can announce in the Official Gazette, either generally or for individual sectors (activities), that employers are obliged to keep proper records of their employees and, upon request, to provide within their regular reports the data on the number, use, and overall performance of their employees to the State Statistical Office, in Slovakia additionally also to the State Planning and Statistics Office, for the needs of district office of protection of labour.

[keywords: obligations of employers]

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Part III. Voluntary participation of persons not yet working in implementation of the two-year economic plan.

Section 6 Persons who are not yet in employment or are not self-employment based on a license, or who are not fully employed in these activities and who voluntarily enter employment during the implementation of the national labour forces mobilization and choose employment, as the case may be, a facility, according to the needs of the two-year economic plan, will be provided, in accordance with regulations on work integration support from special-purpose funds, a support necessary to enable or facilitate them to start employment.

[keywords: two-year economic plan]

Part IV. Transfer of persons expendable in their current jobs to areas

important for the two-year economic plan.

Section 7 Voluntary transfer of employees to another employment.

(1) If an employee voluntarily changes employment based on prior consent of the district office of protection of labour in order to contribute by more economically important work to the implementation of the two-year economic plan, the district office of protection of labour may shorten the notice period. At the same time, the authority is not bound by legal regulations on certain ending dates of the notice period. After hearing the employer, the district office of protection of labour decides on shortening of the notice period, grants consent to terminate the employment, taking into account the importance and urgency of needs of the participating facilities and circumstances of the two-year business plan. The notice period may not be shortened to less than 14 days, unless both parties agree to a shorter notice period. There are no remedies against the decision of the district office of protection of labour.

[keywords: two-year economic plan, transfer to another employment]

Section 8 Compulsory release of expendable employees.

The Minister of Social Welfare, in agreement with the relevant ministers, after hearing the unified trade union organization and the relevant central economic organizations, in accordance with the principles established by the Government Decree (Section 2) shall list employers in areas of work or professions who are obliged to release their expendable employees, in the Official Gazette.

(2) The measure according to paragraph 1 can be made either generally or for certain areas or groups, or, as the case may be, categories of employees. Based on needs of the two-year economic plan, the Decree shall establish who shall determine the number of employees to be transferred to another job, as well as the method to proceed.

[keywords: compulsory release of expendable employees]

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Part V. Return of the skilled or trained workforce to their original occupations.

Section 15 Voluntary return.

The provisions of Section 7 apply to employees who voluntarily return to area of work or profession, in which they are professionally educated or trained, that is important or more important (Section 2) for implementation of the two-year economic plan.

[keywords: return of employees to their profession]

Section 16 Mandatory return.

(1) The Minister of Social Welfare, in accordance with the principles established by

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the Government Decree (Section 2), in agreement with the relevant ministers, after hearing the unified trade union organization and the relevant central economic organizations, will announce in the Official Gazette the areas of work or occupations to which employees with corresponding profession education or training must return if they do not work in their field or profession (employment) and if they are not indispensable in their current position due to important public or economic interest and have not acquired the professional competence normally required for the field in which they actually work. Their social circumstances shall also be considered.

[keywords: return of employees to their profession]

Part VI. Increasing the number of gainfully employed women.

Section 18 The Minister of Social Welfare, in agreement with the participating ministers and after hearing the unified trade union organization and the relevant central economic organizations, can announce in the Official Gazette that certain types of works or employments are reserved primarily for women. This measure can be applied either generally or for certain economic sectors or for individual areas, or, as the case may be, facilities.

[keywords: statutory delegation, equality]

Part VII. Inclusion of persons with reduced working capacity into work.

Section 20 (1) The Minister of Social Welfare, in agreement with the participating ministers and after hearing the unified trade union organization and the relevant central economic organizations, may announce in the Official Gazette that certain types of works or employments are primarily reserved for persons whose working ability is permanently or temporarily reduced for a longer period of time, and to establish types of work and activities reserved for certain degrees or types of reduced work ability. This measure can be applied either generally or for certain economic sectors or for individual areas, or, as the case may be, facilities.

[keywords: statutory delegation]

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Part IX. Increasing work efficiency and discipline.

Section 35 Obligations of employers and employees.

Employers and employees are obliged to endeavour to their best abilities and forces to deliver their best performance in the facility and to duly meet obligations arising from the employment contract and legal provisions, in particular to maintain the work discipline. They shall not let anyone to disturb proper course of work in any way and

avoid absence of work without due reason. If it is necessary to implement the two-year economic plan, work overtime may be required within the framework of the relevant regulations, sometimes at night.

[keywords: obligations of employers and employees]

Section 36 Punishment of offenses against work order.

(1) Breach or neglect of essential obligations arising for the employee from the employment contract is considered an offense against the working order. If an employee commits an offense against work order, they may be reprimanded, or given a public reprimand, or fined according to the following provisions:

a) reprimands are issued orally or in writing for minor inexcusable negligence at work or minor unexcused inaccuracy in compliance with working hours;

b) a public reprimand is delivered in the way usual for announcements in the facility for culpable reduction of work performance, unjustified refusal of assigned work, unjustified non-compliance with working hours, arbitrary early absence at workplace, unjustified absence from work, or repeated inaccuracy in attendance at work, as well as for offenses under letter a), if the employee has already been reprimanded twice;

c) the fine may be imposed based on the gravity of offense up to the amount of the average daily earning, if the employee is guilty under particularly aggravating circumstances, or if they are given a public reprimand for the second time.

(2) The reprimand will be issued by the employer. A public reprimand is announced and a fine is imposed by the employer in agreement with the facility workers council, and in facilities where there is no facility workers council, in agreement with the general body of the unified trade union organization (Section 1 (2) of the Decree of the President of the Republic of 24 October 1945, No. 104 Coll., on facility and organization councils). The employee may file a complaint with the district office of protection of labour within 8 days against such public reprimand or imposition of a fine. If the parties fail to reach an agreement, the district office of protection of labour shall decide whether a reprimand can be announced or a fine imposed, as well as regarding its amount, based on the proposal of the employer or the facility workers council after hearing the employee. There is no remedy against the decision of the district office of protection of labour.

[keywords: crime offences against work order]

Part X. Penal provisions.

Section 37 Court penalties.

(1) Anyone who persistently and without due reason avoids working in an employment or within approved self-employment, or who repeatedly causes outrage at workplace by excessive consumption of alcoholic beverages, will be punished by the court for misdemeanour by imprisonment for up to 3 months.

(2) If the court sentences the offender for a criminal act pursuant to paragraph 1, it shall also establish a secondary punishment stating that such offender may be kept in a detention working centre (sends the offender to a detention working centre).

[keywords: avoidance of work, penalty, imprisonment]

**Government Decree No. 20/1952 Coll., on the assignment of university and
prime vocational schools graduates**

The Government of the Czechoslovak Republic orders, with the consent of the President of the Republic, pursuant to Section 42 (1) of the Act No. 241/1948 Coll., on the first five-year economic development plan of the Czechoslovak Republic (Five-Year Plan Act):

Section 1 The planned development of our economy, industry in particular, requires that professional employees, after graduating from universities and prime vocational schools, apply their professional knowledge and abilities in places where it is necessary to implement tasks of the state national economic plan.

[keywords: state national economic plan]

Section 2 Graduates of universities and graduates of such prime vocational schools to be assigned pursuant to the state national economic plan are obliged to work for a period of three years in plants, offices, courts, institutes, and other facilities (hereinafter referred to as "facilities") to be established based on the state national economic plan by the Ministry of Education, Science, and Arts, or the Ministry of Agriculture, or the Ministry of Forestry and Wood Industry, or the authorities authorized by them. This provision applies to graduates from the school year 1951/1952 and later (hereinafter referred to as "school graduates").

[keywords: state national economic plan, duty to work, statutory delegation]

Section 3 (1) Facilities are obliged to employ school graduates in the jobs for which they were trained, and to take care of their professional and political growth and to ensure their suitable accommodation. In order to cover the expenses associated with starting a job, facilities will reimburse school graduates travel and moving expenses in accordance with the regulations on reimbursement of travel, moving, and other expenses.

(2) Facilities must not employ school graduates who have not been assigned to them.

[keywords: assignment of school graduates to work]

Government Decree No. 43/1952 Coll., on assignment of professional employees

The Government of the Czechoslovak Republic orders, with the consent of the President of the Republic, pursuant to Section 42 (1) of the Act No. 241/1948 Coll., on the first five-year economic development plan of the Czechoslovak Republic:

Section 1 The successful implementation of socialist development requires provision of sufficient number of skilled workers to key enterprises, new enterprises, or enterprises introducing new types of production, in particular. For that purpose, professional workers can be assigned based on needs of the State National Economic Plan according to further provisions of this Decree.

[keywords: state national economic plan]

Section 2 In their respective area of competence, the central authorities can mandatorily transfer professional workers from enterprises, offices, institutes, and other facilities (hereinafter referred to as "facility") to other facilities with shortage of these workers.

[keywords: shortage of workers, transfer of workers]

Section 3 Central authorities are obliged to transfer professional workers from facilities pertaining to their area of competence to the area of competence of other central authorities based on needs of the State National Economic Plan. The assignment of professional workers into facilities shall be implemented by central authorities, to whose area of competence the workers are transferred.

[keywords: state national economic plan, assignment of workers]

Section 4 (1) Professional workers according to this Decree include:

- a) university graduates in technical areas of study in civil engineering (construction and transportation and water management), architecture, mechanical engineering, electrical engineering, chemical engineering, mining engineering, metallurgical engineering, agricultural engineering, graduates of veterinary faculties, forestry engineering, graduates of natural science faculties in the area of mathematics, geology, physics, and chemistry, and graduates of the faculties of economics;
- b) vocational schools graduates for industry, agriculture, forestry, trade, and transport;
- c) technologists, foremen, engineers, designers, chief accountants, planners, sorters, and standardizers, even if they are not graduates of the schools listed under letter a) and b).

[keywords: professional workers]

Section 5 (1) Transferred professionals are obliged to work in the facility assigned by the competent central authority for a period of up to three years as established by such authorities.

(2) The transfer terminates the existing employment and establishes a new employment with the facility to which the professional is transferred.

[keywords: professional workers]

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Section 8 Violation of duties imposed by this Decree on professional workers and facility managers shall be punished pursuant to the provisions of the administrative penal law, unless it represents more severe criminal act.

[keywords: violation of duties, administrative penal law]