

Act on the Prevention of Illegal Work and Employment

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I. GENERAL PROVISIONS

General

Article 1

This act determines in which cases the carrying out of activities and work shall be deemed illegal, in which cases the employment of workers shall be deemed illegal, who is a participant in illegal work and what is illicit advertising.

Terminology

Article 2

(1) According to this Act, a legal entity is a company, a co-operative, an institution or any other legal entity, carrying out a registered activity.

(2) According to this Act, a private person is an independent businessperson or another natural person, carrying out a registered or notified activity.

(3) According to this law, an individual is a Slovene or foreign person, carrying out an activity or work without registration or notification and without fulfilling other conditions stipulated by the law.

Illegal work

Article 3

(1) The following instances of performing an activity or work shall be deemed illegal work:

- if a legal entity carries out an activity which is not registered in the register of companies, or it does not have the documents fulfilling the conditions for performing a registered activity as stipulated by the law,

- if a private person performs an activity, of which he or she has not notified the competent body, or does not have the documents, required by the law, on the fulfilment of the conditions for carrying out a notified activity

- if a legal entity or a private person performs an activity in spite of a temporary ban on carrying out this activity,

- if a foreign legal entity or private person, based or resident outside the Republic of Slovenia, is carrying out an activity on the territory of the Republic of Slovenia or is performing certain services on the territory of the Republic of Slovenia without fulfilling the conditions and without registering the commencement of the performance of these services at the competent tax office,

- if an individual is carrying out an activity or work which is not registered or notified as stipulated by this or another law.

(2) Performing the illegal work in the previous paragraph shall be prohibited.

A participant in illegal work

Article 4

(1) A legal entity, a private person or an individual that enables one or more people to carry out illegal work, knowing that they are working illegally, is a participant in illegal work.

(2) A legal entity, a private person or an individual, having concluded a contract with another legal entity, private person or an individual, knowing that they are carrying out illegal work, is a participant in illegal work.

Illegal employment

Article 5

(1) Illegal employment shall be prohibited. Employment shall be deemed illegal when a legal entity or a private person, itself fulfilling the conditions for carrying out an activity:

- has not concluded a contract of employment or a contract of work in line with the regulations and has not registered the worker with the health insurance institute and the pension and invalidity benefit institute,

- employs an alien or a person without citizenship contrary to regulations on the employment of aliens.

(2) When an individual, on his or her own behalf and for his or her own account, employs a worker who then performs illegal work, it shall also be deemed illegal employment.

Illicit advertising

Article 6

(1) It shall be prohibited to commission and publish advertisements (hereafter: illicit advertising) in newspapers, magazines, on radio, on television or via other electronic media (hereafter: advertising organisation), or to convey and publish advertising messages in another way accessible to the public, when:

- a legal entity, a private person or an individual offers or advertises illegal work as defined by Article 3 of this Act,

- a legal entity, a private person or an individual announces the requirement for a worker whose work is not linked to the registered or notified activity of the legal entity, the private person or the individual in question.

(2) When commissioning an advertisement, a commissioner of an advertisement shall be duty-bound to state the information about his or her identity: the company and where it is based, the full name of the liable person or the full name of the commissioner and his or her permanent address.

(3) An advertising organisation may not publish an advertisement if the commissioner of the advertisement does not supply the information from the previous paragraph.

(4) When asked, an advertising organisation shall be duty-bound to supply the bodies listed in Article 13 of this Act with the information on the commissioner of an advertisement.

II. EXCEPTIONS WHICH ARE NOT DEEMED ILLEGAL WORK

Activities not deemed illegal work

Article 7

Irrespective of Article 3 of this Act, the following instances of performing activities or work shall not be deemed illegal work:

- mutual neighbourly help,

- carrying out work exclusively to meet one's own needs

- carrying out emergency work for the prevention of accidents or to remove the consequences of natural and other accidents,
- carrying out of humanitarian, charity, voluntary and beneficial work
- personal supplementary work.

Neighbourly help

Article 8

Mutual help between neighbours when there is a certain proximity between them with regard to their residence, when there is no contract between them and the work is not paid and not carried out by a legal entity or a private person involved in an activity directly linked to the work in question, as well as other forms of neighbourly help, as defined by law, shall be deemed neighbourly help.

Work carried out exclusively for personal needs

Article 9

The carrying out of work on one's own immovable property, unless otherwise determined by law, and on one's own movable property, as well as the performance of various services by the owner himself or herself, or his or her spouse, or the partner with whom he or she lives outside marriage, or with persons related to the owner in a direct line up to three times removed, shall be deemed work carried out exclusively for personal needs.

Emergency work

Article 10

All work carried out with the intention of preventing natural accidents (floods, avalanches) or removing the consequences of natural accidents (removing rubble or alluvia) or other accidents (dealing with the consequences of a fire or similar) shall be deemed emergency work for the prevention of accidents or the removal of the consequences of natural and other accidents.

Humanitarian, charity, voluntary and beneficial work

Article 11

(1) Unpaid work for organisations registered as humanitarian or charity, and organised voluntary work within other non-governmental organisations, shall be deemed humanitarian, charity and voluntary work.

(2) Unpaid work for the benefit of wards of educational institutions and nurseries, school-children and students in educational institutions, patients in hospitals and residents of retirement homes, shall be deemed beneficial work.

Personal supplementary work

Article 12

(1) When an individual personally carries out supportive tasks in a household and similar work, picks and sells fruits of the forest and herbs, or carries out other smaller jobs, under the condition that special regulations do not stipulate otherwise, this shall be deemed personal supplementary work.

(2) When an individual personally makes craft products for which he or she has acquired an opinion in line with the provision of Article 15 in the Small Business Act (Official Gazette of the RS, No. 50/94), this shall also be deemed personal supplementary work.

(3) The work in paragraphs one and two of this Article may be carried out under the condition that the annual income from this title does not surpass the minimal annual wage in the Republic of Slovenia from the previous year, and when it is defined in the rules on the work deemed as personal supplementary work and on the procedure of the notification of this work.

(4) An individual shall be duty-bound to notify the competent administrative unit about his or her personal supplementary work, so that the body then includes him or her in the list of persons under obligation, carrying out personal supplementary work.

III. Supervision

Supervisory bodies

Article 13

(1) Violations of the provisions of this Act shall be determined by inspectorates and other bodies with the authorisation defined by this Act and other special acts:

- the market inspectorate shall monitor violations of the provisions in Articles 3 and 4 and the first indent of the first paragraph of Article 6 of this Act;

- the inspectorate of labour shall monitor violations of the provisions of Article 5 and the second indent of the first paragraph of Article 6 of this Act;

- the traffic inspectorate shall monitor violations of the provisions of Article 3 of this Act.

(2) The Tax Administration of the Republic of Slovenia shall keep a record of the annual income from the title of personal supplementary work in line with the third paragraph of Article 12 of this Act, and the Tax Administration's authorised supervisors shall carry out direct monitoring of the violations of the provisions of this Act. In addition, the following shall perform indirect monitoring of the violations of this Act: Customs Administration, agriculture, forestry and building inspectorates, the environment inspectorate, the health inspectorate, the inspectorate of schools, and the police. These bodies shall be duty-bound to immediately notify in writing the competent body in the previous paragraph about any suspicions or an ascertainment of violations of this Act.

(3) In ascertaining violations of the provisions of this Act, the supervisory bodies from the first and second paragraph of this Article shall have a right to demand from a legal entity, a private person or an individual all documents from which it is possible to ascertain a violation of the provisions of this Act.

(4) If illegal work in line with Article 3 of this Act is carried out, one of the supervisory bodies from the first paragraph of this Article shall issue a decision which bans the carrying out of such work.

(5) The period within which it is possible to appeal against the decision from the previous paragraph is eight days from the service of the decision.

(6) If it is possible in line with this Act to remove the object with which the illegal work was performed, a supervisory body from the first paragraph of this Article may temporarily seize the object.

National commission

Article 14

(1) The Government of the Republic of Slovenia shall appoint a commission charged with the uncovering and prevention of illegal employment which shall determine, co-ordinate and monitor activities aimed at the prevention of illegal work and employment.

(2) The commission from the previous paragraph shall co-ordinate the work of inspection bodies from the previous Article and, once a year, prepare a report on the activities and the effects of the prevention of illegal work and employment.

(3) The commission shall submit the report from the previous paragraph to be dealt with by the economic-social committee and the Government of the Republic of Slovenia.

PENAL PROVISIONS

Article 15

(1) A legal entity carrying out an activity defined in the first indent of Article 3 of this Act shall be liable to a fine of between 1,000,000 and 5,000,000 SIT.

(2) A private person carrying out an activity defined in the second indent of Article 3 of this Act shall be liable to a fine of between 1,000,000 and 5,000,000 SIT.

(3) A legal entity or a private person carrying out an activity defined in the third indent of Article 3 of this Act shall be liable to a fine of between 800,000 and 3,000,000 SIT.

(4) A foreign legal entity or private person, carrying out an activity defined in the fourth indent of Article 3 of this Act shall be liable to a fine of between 1,000,000 and 5,000,000 SIT.

(5) An individual carrying out an activity or work defined in the fifth indent of Article 3 of this Act shall be liable to a fine of between 50,000 and 450,000 SIT.

(6) In addition to the pecuniary penalty, a protective measure in the form of the seizure of the objects used in the violation may also be taken in case of violations from the first, second, third and fifth paragraph of this Article.

(7) For a violation from the first, third and fourth paragraph of this Article, the liable person from the legal entity shall also be liable to a fine of between 100,000 and 500,000 SIT.

Article 16

(1) A legal entity or a private person participating in illegal work in line with Article 4 of this Act shall be liable to a fine of between 500,000 and 3,000,000 SIT.

(2) The liable person from the private person from the previous paragraph shall also be liable to a fine of between 80,000 and 300,000 SIT.

Article 17

An individual who is a participant in illegal work in line with Article 4 of this Act shall be liable to a fine of between 50,000 and 450,000 SIT.

Article 18

(1) A legal entity or a private person committing a violation in line with the first paragraph of Article 5 of this Act shall be liable to a fine of between 1,000,000 and 5,000,000 SIT.

(2) The liable person from the legal entity from the previous paragraph shall also be liable to a fine of between 100,000 and 500,000 SIT for a violation defined in the previous paragraph.

(3) An individual committing a violation in line with the second paragraph of Article 5 of this Act shall be liable to a fine of between 100,000 and 450,000 SIT.

(4) The competent inspector may immediately at the scene of violation impose a fine of 100,000 SIT on a legal entity, a private person or an individual committing a violation in line with Article 5 of this Act.

(5) The liable person from the legal entity from the previous paragraph may also be immediately liable to a fine of 50,000 SIT at the scene of violation.

Article 19

(1) A legal entity or a private person committing a violation in line with Article 6 of this Act shall be liable to a fine of between 300,000 and 3,000,000 SIT.

(2) The liable person from the legal entity shall also be liable to a fine between 50,000 and 300,000 SIT for the violation from the previous paragraph.

Article 20

An individual committing a violation in line with Article 6 of this Act shall be liable to a fine of between 50,000 and 450,000 SIT.

Article 21

(1) In addition to a fine, an individual may also be banned from freelance performance of activities or work for a period from three months to a year, when he or she has been fined in line with Article 15 of this Act.

(2) In cases when a violation is committed by an individual who is an alien, the protective measure of removing him or her from the country, together with a prohibition of re-entry for a period from six months to two years, may be imposed in line with this Act.

V. TRANSITIONAL AND FINAL PROVISIONS

Article 22

(1) The minister responsible for labour, in agreement with the minister responsible for finance shall, within six months of this Act entering into force, issue rules in line with the third paragraph of Article 12 of this Act.

(2) The Government of the Republic of Slovenia shall appoint the commission in line with Article 14 of this Act within six months of this Act entering into force.

Article 23

On the day this Act starts being applied, the following cease to apply:

- point 2 in the first paragraph of Article 573 of the Companies Act (Official Gazette of the RS, No 30/93, 29/94, 82/94, 20/98, 94/98 and 54/99),

- Article 28 of the Trade Act (Official Gazette, No. 18/93)

- Article 23 of the Catering Act (Official Gazette, No. 1/95 and 40/99),

- Article 12 of the Act Amending the Labour Inspection Act (Official Gazette, No. 32/97),

- Article 34 of the Foreign Trade Act (Official Gazette, No. 13/93, 66/93, 7/94, 1/95, 28/95, 58/95 and 23/99),

- points 3 and 13 in the first paragraph of Article 132 of the Employment Act (Official Gazette, No. 14/90, 5/91 and 71/93),

- the first indent of the first paragraph of Article 84 of the Public Media Act (Official Gazette, No. 18/94),

- Articles 90 and 91 of the Health Services Act (Official Gazette, No. 9/92, 26/92, 13/93, 45/94, 37/95, 8/96, 59/99 and 90/99),

- the second indent of the first paragraph of Article 55 and the third and fourth indent of the first paragraph of Article 56 of the Telecommunications Act (Official Gazette, No. 35/97),

- Article 43 of the Small Business Act (Official Gazette, No. 50/94)

- Article 55 of the Road Transport Act (Official Gazette, No. 72/94, 18/95, 54/96, 48/98 and 65/99),

- points 1 and 2 of Article 117 of the Social Care Act (Official Gazette, No. 54/92, 42/94, 1/99 and 41/99),

- Article 60 and point 1 of the first paragraph of Article 61 of the Institutes Act (Official Gazette, No. 12/91, 17/91, 55/92, 13/93, 66/93, 45/94 and 8/96).

Article 24

This Act enters into force on the fifteenth day after its publication in the Official Gazette of the Republic of Slovenia, and it starts being applied twelve months following its entry into force, with the exception of provisions in Articles 6, 19 and 20, which start being applied on the day of this Act entering into force.

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