

CONFIDA

Ideas that pay off.

Monthly Newsletter

November, 2022

CONFIDA.HR

I. OVERVIEW OF CHANGES TO THE ENFORCEMENT LAW

There was another Draft proposal of the Law on Amendments to the Enforcement Law. The Enforcement Law regulates the procedure by which courts and notaries public carry out the enforcement of claims based on enforceable and authentic documents, the procedure for securing claims and substantive legal relations that arise in the course of and as a result of enforcement procedures and insurance procedures.

The Enforcement Law and the Enforcement Law of Financial Assets constitute the legislative framework for the implementation of extrajudicial enforcement of financial assets carried out by the Financial Agency, employers and the Croatian Pension Insurance Institute. The aforementioned represents an administrative burden for employers and CPII, and it has been shown it is not possible to establish a uniform priority order and that employers are often in doubt as to how to proceed.

It is necessary to relieve employers administratively through legislative intervention.

EMPLOYERS AND CPII ARE RELEASED FROM THE ENFORCEMENT DUTY

The bailee's dignity will be respected. After this Act enters into force, employers and other payers of monetary benefits will continue to enforce enforcement only based on the documents on which they are already in enforcement. They will not receive new enforcement documents.

By this, employers and CSII are released from the enforcement duty on salary and pension. When the rights acquired by already received enforcement documents are exhausted, they cease to be the bodies that carry out the enforcement.

The proposed solution is that all executions will be carried out according to a single priority order on funds at the Financial Agency (FINA).

In situations where a salary or other permanent monetary income is not paid into the account, a special dedicated account for execution is foreseen.

THE FINANCIAL AGENCY CANNOT COLLECT IN OTHER COUNTRIES

Digital banks like Revolut could pose a problem for the financial agency. Namely, FINA cannot carry out the collection in other countries. Enforcement can be carried out exclusively on accounts opened in banks in the Republic of Croatia.

CONSEQUENCES OF THE NEW LAW

The new Law adoption envisages the balancing of the existing system of enforcement as well as an additional improvement while recognizing the need for the enforcement procedure to be carried out quickly, efficiently and economically. Also, the goal is to protect the dignity of the person being executed and to ensure the execution is carried out in the most favourable way possible.

II. RULES FOR KEEPING WORKING HOURS RECORDS

According to the Labor Act, every employer is obliged to keep records of the workers employed by him. The records must contain data on workers and working hours, and we provide more details on working time records below.

WORKING TIME CONCEPT

Article 60 of the Labour Law defines the term working time:

- “Working time is the time in which the worker is obliged to perform tasks, that is, in which he is ready (available) to perform tasks according to the employer instructions, in the place where his tasks are performed or in another place determined by the employer.”
- “Working time is not considered time during which the worker is ready to respond to the employer's call to perform work if such a need arises, where the worker is not at the place where his work is performed or at another place designated by the employer.”
- “Standby time and the amount of compensation are regulated by the employment contract or collective agreement.”
- “The time that the worker spends performing tasks at the request of the employer is considered working time, regardless of whether they are performed in a place designated by the employer or in a place chosen by the worker.”

WHAT DATA MUST BE ENTERED IN THE WORKING TIME RECORDS?

The following data must be entered in the working time records:

- Employee name and surname,
- Date,
- Start of work,
- Completion of work,
- Time and hours of work interruptions and the like,
- Total daily working hours,
- Hours of fieldwork,
- Standby hours,
- Time of absence from work (e.g. vacations, non-working days and holidays, inability to work due to temporary incapacity...).

SPECIAL DATA

The employer is also obliged to keep special data on working hours. The realization of certain rights from the employment relationship or in connection with the employment relationship depends on this data. Such data must be kept if the obligation to keep it is contracted by a collective agreement, an agreement between the works council and the employer, an employment contract or if it is regulated by labour regulations.

An employer who is obliged to keep special data is not obliged to indicate the hours of daily and weekly rest in the working time record. Also, for workers whose working hours are distributed in the same duration and the same schedule, the employer is not obliged to keep records of the hours of daily and weekly rest.

DEADLINES

Records of working hours are kept for the accounting period established for the wage payment and must be kept in an orderly, comprehensible and up-to-date manner. The employer is obliged to fill in the records no later than seven days after the day for which the data is filled. Working hours records must be kept for at least six years.



III. WHAT DO THE CHANGES TO THE PRE-BANKRUPTCY SETTLEMENT ACT BRING US?

The Law on Amendments to the Bankruptcy Law also makes changes related to pre-bankruptcy settlements.

The aforementioned law is being amended for the second time and most of it entered into force on March 31, 2022. The goal is to remove obstacles that prevent viable companies in financial difficulties from accessing effective national frameworks for preventive restructuring and continuing operations. There is also the provision of a second opportunity, i.e. enabling debt relief after a reasonable period for insolvent or over-indebted entrepreneurs. It is added as a goal to improve the procedures related to restructuring, insolvency and debt relief.

EARLY WARNING OF DEBTORS

The debtor is provided with access to a clear and transparent early warning system for circumstances that could lead to a threatening inability to pay. Thus, he is warned that it is necessary to act without delay. The debtor can also use counselling services provided by public or private organizations.

The employer is obliged to inform the workers at least once a year about news regarding the early warning system as procedures and measures related to restructuring and debt relief.

In the case of the probability of insolvency, the director's duty is to take into account the interests of creditors, shareholders and other persons with a special interest, then to take measures to avoid insolvency and to avoid actions that intentionally or negligently endanger the viability of the business.

DATA COLLECTION

The Ministry responsible for judicial affairs will collect and generate on an annual basis and at the national level data on procedures related to restructuring, insolvency and debt relief. It will also collect and generate data on the number of entrepreneurs who started a new business after the procedure and on the number of lost jobs related to these procedures.

CLAIMS DETERMINATION

The rules on the presumption of filing a claim are deleted, which means that all creditors must report their claim in the pre-bankruptcy procedure, regardless of whether the debtor has included it in the financial statements.

The deadline for filing claims of pre-bankruptcy creditors remains the same, which is 21 days from the date of delivery of the Decision on the opening of pre-bankruptcy proceedings.

CHANGES IN VOTING ON THE RESTRUCTURING PLAN

If the creditors do not submit a voting form or a form from which it can be unequivocally determined how they voted by the start of the voting hearing, then they will be considered to have voted for the restructuring plan. Creditors will be deemed to have accepted the restructuring plan if in each group the majority voted for the plan and the sum of claims of creditors who voted for the plan exceeds twice the sum of claims of creditors who voted against the plan.

If the majority in a certain group is not reached and other prerequisites for confirmation of the plan are met, then the decision is made by the court.

LIMITATION OF THE DURATION OF SUSPENSION OF ENFORCEMENT PROCEEDINGS

It is anticipated that the day of the opening of the pre-bankruptcy proceedings will result in the suspension of enforcement and insurance proceedings. There is also a ban on initiating new enforcement and insurance proceedings against the debtor for 120 days.

SUSPENSION AND CONCLUSION OF PRE-BANKRUPTCY PROCEEDINGS

The pre-bankruptcy procedure must be completed within 120 days from the day of opening at the latest. The court has the option to extend the deadline for a maximum of another 180 days if it considers that progress has been made in the negotiations on the restructuring plan and that there is a probability of a successful conclusion of the procedure.

IV. THE AMENDMENT TO THE COLLECTIVE AGREEMENT FOR CONSTRUCTION ENTERED INTO FORCE

After the fourth amendment to the Collective Agreement for construction, on September 15, 2022, the fifth amendment to the aforementioned Collective agreement was concluded.

A new one replaces the „Tariff headings“ table and removes trade owners and persons authorized to represent the business entity in group XI from the table jobs.

THE SALARY AMOUNT OF THE BOARD MEMBER AND DIRECTOR

For the work period after November 1, 2022, board members and directors must be paid a basic gross salary of at least HRK 15,000.00, regardless of whether they work for micro, small, medium or large enterprises.

Below we present the changes within all job groups and basic salaries in kuna as of November 1, 2022.

- I. the job group implies simple routine work that does not require special education
 - Basic salary per hour = 29,31 HRK
 - Basic salary per month = 5.100,00 HRK
- II. the group of jobs includes less complex jobs and tasks, i.e. work for which written instructions are sufficient
 - Basic salary per hour = 31,61 HRK
 - Basic salary per month = 5.500,00 HRK
- III. the group of jobs includes medium-complex jobs and tasks on which the work is repeated with the occasional appearance of new jobs
 - Basic salary per hour = 34,48 HRK
 - Basic salary per month = 6.000,00 HRK
- IV. a – the group of jobs implies more complex and diverse jobs and tasks, the performance of which requires consultation in their execution
 - Basic salary per hour = 37,36 HRK
 - Basic salary per month = 6.500,00 HRK
- IV. b – the group of jobs implies more complex and diverse jobs and tasks, the performance of which requires independence in their execution
 - Basic salary per hour = 40,23 HRK
 - Basic salary per month = 7.000,00 HRK
- V. a – the group of jobs implies more complex jobs and tasks that require a greater degree of independence in the execution of jobs and tasks
 - Basic salary per hour = 42,24 HRK
 - Basic salary per month = 7.350,00 HRK
- VI. the group of jobs includes jobs that require independence and a greater degree of creativity in their execution
 - Basic salary per hour = 46,41 HRK
 - Basic salary per month = 8.075,00 HRK
- VII. the group of jobs implies jobs that require additional knowledge of a narrower field of activity as well as independence and creativity in the execution of jobs in those areas
 - Basic salary per hour = 49,28 HRK
 - Basic salary per month = 8.575,00 HRK
- VIII. the group of jobs implies very complex jobs that require the initiative and creativity of workers, designing jobs and tasks
 - Basic salary per hour = 55,03 HRK
 - Basic salary per month = 9.575,00 HRK
- IX. the group of jobs implies very complex jobs that require the initiative and creativity of workers, as well as additional specialist knowledge needed to perform these jobs
 - Basic salary per hour = 57,47 HRK
 - Basic salary per month = 10.000,00 HRK
- X. the group of jobs includes the most complex jobs and tasks with the greatest importance for managing the production and business processes, creative jobs, tasks, research work, etc.
 - Basic salary per hour = 66,09 HRK
 - Basic salary per month = 11.500,00 HRK
- XI. job group
 - Basic salary per hour = 86,21 HRK
 - Basic salary per month = 15.000,00 HRK

IV. THE AMENDMENT TO THE COLLECTIVE AGREEMENT FOR CONSTRUCTION ENTERED INTO FORCE – CONTINUED

According to the Collective Agreement for Construction, the employer must provide workers with the following:

- Holiday in the amount of HRK 2,000.00, provided that the employee acquires the right to an entire vacation in the current year
- Christmas bonus of HRK 600.00, paid in December of the current year
- Per diem from HRK 150.00 to 200.00 and transportation costs on business trips
- The daily wage for workers in the field is from HRK 130.00 to 200.00
- The cost of transportation to and from work is equal to the actual cost of transportation by public transport
- The reward for pupils and students on compulsory internship is from HRK 600.00 to HRK 1,250.00 per month
- Severance pay for HRK 8,000.00
- Joint assistance in the event of the death of a worker for at least HRK 7,500.00 or of a family member for at least HRK 3,000.00
- Jubilee award by the terms of Art. 61.



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