

EMPLOYER'S OBLIGATIONS UNDER THE NEWLY-ADOPTED PERSONS WITH DISABILITIES ACT

On 01.01.2019 an entirely new Persons with Disabilities Act entered into force. It introduces important obligations for employers which aim to guarantee employment to permanently disabled persons with more than 50% disability type and degree certified by the medical expertise bodies.

The terms and conditions for execution of the employers' obligations would be set in the implementing regulation to the Persons with Disabilities Act which must be adopted until 31 March 2019. The new obligations will practically come into effect after the adoption of the implementing regulation.

What are the new obligations for the employers?

Pursuant to the revoked Persons with Disabilities Integration Act the employers had to reserve at least half of the positions under Art. 315 of the Labour Code, determined as suitable for vocational rehabilitation, for people with permanent disabilities.

The obligation to guarantee certain positions for permanently disabled persons is kept in the new Persons with Disabilities Act but it follows different principles:

- the guaranteed positions for permanently disabled persons are separate from and in addition to the positions under Art. 315 of the Labour Code determined as suitable for vocational rehabilitation;
- the employers must employ permanently disabled persons according to set quotas depending on the number of their employees;
- failure to meet the set quotas may be compensated with payment of a monthly installment.

How many positions for permanently disabled persons must be reserved?

Employers must employ permanently disabled persons in accordance with the following quotas:

- employers having less than 50 employees are exempt from the obligation to employ persons with permanent disabilities;
- employers having between 50 and 99 employees – one person with permanent disabilities;
- employers with 100 and over employees – 2% of their average headcount.

The positions reserved for persons with permanent disabilities must allow enjoyment and development of the disabled employees' skills and knowledge and must be adapted to their needs. Employers are entitled, under certain conditions, to state funding covering the expenses for arranging access, adapting and equipment of the working place assigned to a permanently disabled employee.

What do employers need to do to comply with their quota obligation?

Once having allocated certain positions to permanently disabled employees, employers must notify the territorial structures of the Employment Agency of any vacant positions and the employees they need, the required qualification and professional skills. The territorial structures of the Employment Agency, in turn, provide specialized employment agency services to job applicants with disabilities which include directing them to potential employers in accordance with their announced vacant positions and assistance in the negotiations between the persons with disabilities and the employers.

Within three months from the notification the employer must hire persons with permanent disabilities who meet the job requirements for the vacant position, including suitable job applicants who have been forwarded by the Employment Agency.

Employers must also notify the territorial structures of the Employment Agency that they have employed persons with permanent disabilities as per their quota.

Under what circumstances can employers be exempt from the obligation to employ persons with permanent disabilities?

An exemption from the quota obligation is possible in the following cases:

- there are specific factors in the working environment which preclude the employment of persons with permanent disabilities;
- lack of persons with permanent disabilities forwarded by the Employment Agency or by registered employment intermediaries;
- introduction of alternative measures for employment of permanently disabled persons stipulated in the implementing regulation to the Persons with Disabilities Act.

The existence of any of the exemption criteria, however, must be duly certified by the General Labour Inspection Executive Agency.

What is the monthly compensation installment which must be paid if no persons with permanent disabilities are employed?

If the employer does not hire permanently disabled persons according to his quota obligation, he must pay monthly a compensation installment amounting to 30% of the minimum statutory salary for each vacant position assigned to a permanently disabled person. For 2019 the monthly compensation installment will be in the amount of BGN 168 for each vacant position.

What are the administrative sanctions for failure to pay the compensation installment?

Employers who fail to pay the monthly compensation installment are subject to an administrative sanction ranging from BGN 2000 to BGN 5000. The sanction for repeated offences amounts to BGN 4000 up to BGN 10 000.

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