

Homework Contracts under the Labour Proclamation

Description

By DMLF Team

Home work contract is a special type of contract of employment. There are two types of special contract of employment identified by the Labour Proclamation No 1156/2019. These are home work contracts and contracts of apprenticeship. The focus of the article shall be on home work contracts. A brief look on what home work contracts are in terms of agreement, supervision by employer, wage, duration of work shall be discussed together with record keeping obligation on the employer.

Definitions

The Labour Proclamation defines home work contracts as follows: *'There shall be a home work contract when a natural person habitually performs work, for an employer, in his own home or any other place freely chosen by him in return for wages without any direct supervision or direction by the employer'*(Article 46(1) of the Labour Proclamation No 1156/2019).

In agreement for the sale of raw materials or tools by an employer to a home worker and the sale of the products to the employer or any other similar arrangements made between the employer and the home worker shall be deemed a home work contract. ((Article 46(2) of the Labour Proclamation No 1156/2019). For a stark comparison let's look into the definition of employment of contract on the Labour Proclamation Article 4(1)-*A contract of employment shall be deemed formed where a natural person agrees directly or indirectly to perform work for and under the authority of an employer for a definite or indefinite period or piece of work in consideration for wage.* Lets see the elements of the definition of contract of employment.

a)Agreement

The formation of home work contract assumes the existence of an agreement. Home work contract is a willful engagement. Provision of service from the side of the employee for the benefit of the employer exists. The place of work of the employee is freely chosen by the employee. The place of work could be the employee's abode or any other convenient palace for the performance of the work.

b)No need of Supervision by the employer

In a normal employer-employee relationship, the service to be rendered by the employee will be under the supervision or authority of the employer.(Article 4(1) of the Labour Proclamation No 1156/2019). Contrary to this provision, in the case of home work contract, there is no direct supervision or the employee is not under the authority of the employer. The employee performs home work services under his own responsibility. The employee is not under strict guidance or control of the employer.

c)Wage

As the employee provides home work services for the employer's benefit, the corresponding obligation

of the employer is to discharge by paying wage. The amount of wage shall be an agreed sum by the parties. Wage is defined as 'regular payment to which an employee is entitled in return for the performance of the work that he performs under the contract of employment(Article 53(1)).

d)Contract for specific period or piece-work

Home work contract of employment is made for a definite duration or piece work. The home work contract can state the contract shall remain valid for three months or six months or one year or till such work in numbers or in kind are completed etc. On the end of the duration or piece work, the contract shall come to an end. Home work contract is an addition to the exhaustive list of fixed term contracts under Article 10 of the Labour Proclamation.

Record Keeping

A written contract of employment may not be mandatory for a home work contract. The law does not impose the form of the contract of employment for home work contracts. If the parties go the road of agreeing in writing, fantastic. Nevertheless, the law requires the employer to keep records. The records the employer has to keep is required to contain *Full name, age, marital status and address of the worker; The address where the work is to be carried out; The type, price, quality and quantity of material supplied by the employer to the worker;The type of work, quality and quantity ordered; The time and place of delivery of the product or material; Amount and manner of payment* (Article 47 of the Labour Proclamation).

Conclusion

A home work contract is a special contract that is dealt on the Labour Proclamation. What makes a home work contract special is the fact that the employee is free to choose where he performs his duties and the employee is free from the supervision or control of the employer. The Minister may, in consultation with the concerned organs, prescribe by directive the provisions of the Labour Proclamation that shall apply to home workers and manner of their application.

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