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Part-Time Work: Its Concept, Types And Conditions

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ABSTRACT

This article discusses the issues of legal regulation of part-time work and its types. The legal features of the types of working time analyzed in the article are an urgent subject of research, which is of great importance for the regulation of relations between employer and hired and subordinate employee. The scientific publication analyzes the problems of establishing part-time work. Based on the analysis of the current legislation in the sphere of labor, the author formulates the criteria that allow distinguishing between these types of working time.

KEYWORDS

Labor law, labor relations, labor legislation, part-time work, working week, working hours, employee, employer, features of labor relations.

INTRODUCTION

The spread of the part-time or part-time work system is becoming more and more relevant today. Part-time work can ensure the interests of both employees and employers.

The demand for part-time labor is caused by a number of objective factors: automation of production, i.e. the creation of automated factories, farms in agriculture with a small number of employees; the emergence of new

technologies that do not require the constant presence of an employee at the workplace; automation of the service sector, symbolized by an automated "office", where paper work is replaced by electronic means of transmitting and storing information.

Part-time work is a type of working time that differs in its specifics from reduced and normal working hours.

The legal regulation of part-time work in the legal literature has been the subject of research by various scientists.

According to A.M.Kurennoy, part-time work is part of the normal or reduced working time, i.e. part of the full measure of labor duration (as opposed to reduced, which is a full measure of labor duration)[1].

According to scientists M.T.Turgunov, O.A.Kamalov, A.X.Dusmanov part-time work is part of the established normal or reduced working time [2].

But, in our opinion, a more complete definition of part-time work is given by M.Y.Gasanov, who defines that part-time work

- this is part of the normal or reduced working time (working day, week), the duration of which is determined by agreement between the employee and the employer, and the payment of which is made in proportion to the time worked,

and in case of piecework payment - for the work actually performed at the usual rates [3]. This circumstance determines the difference in the payment and establishment of this type of working time in comparison with other types of working time. As noted, if the

working hours are reduced or normal, the work performed is paid in full. Part-time work is paid in proportion to the time worked or depending on the amount of work performed.

Part-time work, according to article 119 of the Labor Code of the Republic of Uzbekistan, covers a part-time or part-time working week. It can also be considered incomplete if the employee's work regime provides for a reduction in both the length of the working day and the number of working days per week.

At the same time, in all cases, the norms of working hours for a particular period are reduced, i.e. the employee works less time than is established by the schedule or schedule of work at this enterprise [4]. For example, if an employee works part-time instead of eight hours, five hours, or a five-day work week, the employee is assigned a four-day work week.

From the example, you can see that the legislation does not determine by what specific number of hours or days the working time should be reduced so that it is considered incomplete. Therefore, it will be considered incomplete in all cases, regardless of how much its duration was reduced: by half or even less.

Part - time work means that the employee works the full number of working days per week (five or six days, depending on the type of working week established in the company), and the number of hours of daily work is reduced.

If you have a part-time work week, the number of working days per week is reduced while maintaining the length of the working

day. For example, when in a five-day work week, an employee works only three full days. It is also possible to distinguish combined part-time work, in which the working day and working week are simultaneously reduced, and therefore the employee works fewer hours and fewer working days compared to the established schedule or schedule of work at a particular enterprise. For example, for five hours only four days a week.

An important feature of part-time work is expressed in the agreement of the parties to the employment contract to establish part-time work. However, according to article 119 of the Labor Code, under an agreement between an employee and an employer, part-time work can be established both at the time of employment and later [5].

However, in some cases, directly provided for by law, its establishment at the request of the employee is the responsibility of the employer [6].

The legislation provides for several cases when the employer does not have the right to refuse and is obliged to set part-time working hours for the employee at his request. For example, a charge to the employer's hour the second article

220 part-time must be set to disabled people of I and II groups, and article 229 of the Labor Code, according to which part-time work should be established at the request of pregnant women or women with children under the age of fourteen years (a disabled child up to the age of sixteen). This article also provides that if there is an appropriate medical report, the employer must establish part-time working hours for the person caring for a sick family member.

The legislation also provides for cases when the employment of an employee is possible only on a part-time basis. Moreover, its duration may not exceed half of the working time established by law for this category of employees. For example, these conditions should be applied for employment part-time students, as well as students in higher education institutions who work during the school year in their free time.

It should be noted that similar circumstances as an additional condition for the need to switch to such a mode of work, collective agreements, collective agreements or employment contracts concluded with an employee may provide for specific circumstances (in addition to those established by law), in the event of which the employer undertakes to establish part-time work at the request of the employee [7].

When establishing part-time work for an employee, it should be assumed that its duration should ensure the goals for which the law obliges the employer to meet the employee's request for establishing part-time work (the ability to take care of a child or a sick family member, health protection of disabled employees, etc.).

Part-time work has certain similarities and differences from reduced working hours.

What these types of working hours have in common is that the length of working time, both for part-time and reduced-time, is less than the normal length of working time established by law.

A distinctive feature of part-time work from other types of working time is the order in which they are established. Thus, the establishment of reduced working hours for a

number of categories of employees is provided directly by law. The employer does not have the right to increase it (including with the consent of the employee), even within the normal working hours. This also applies to cases where reduced working hours are stipulated by collective agreements, collective agreements, or other local acts adopted by the employer in agreement with the representative body of employees. With regard to part-time work, in contrast to the above procedure, the law only provides for the possibility of concluding an agreement between the employee and the employer on its establishment.

This means that part-time work can be established by agreement between the employee and the employer both at the conclusion of the employment contract and later in the course of work. The same procedure is used to determine a particular type of part-time work (part-time, part-time, or a combination of part-time and part-time work) and its specific duration. That is why the establishment of part-time work is one of the additional conditions of the employment contract [8].

Another difference between part-time work and reduced duration is the different payment order in which part-time work is paid in proportion to the time worked.

Based on the above, we can say that part-time work is established by agreement between the employee and the employer. In this regard, the employee does not have the right to demand its establishment, except in cases stipulated by the Labor code or contractual acts, if the employer for one reason or another does not give his consent to this.

According to part three of article 119 of the labor code, part-time work does not entail for employees any restrictions on the duration of the annual basic leave, calculation of work experience and other labor rights [9] (annual basic leave of the same duration as an employee who performs the corresponding work full-time).

As M.Gasanov rightly emphasizes, the time worked by the order of the employer or with his knowledge in excess of the part-time duration established for the employee is overtime and is subject to payment of at least double the amount, or at the request of the employee can be compensated by providing time off in an amount commensurate with the number of overtime hours worked [10].

The labor legislation of foreign countries has certain similarities and differences from the legal regulation of part-time work in the Republic of Uzbekistan.

According to the Labor Code of the Russian Federation, the establishment of part-time work can be established for any employee by agreement between the employee and the employer, both at the time of employment and later. An agreement between an employee and an employer on part-time work may provide for a reduction in working hours by any number of hours or working days, without any restrictions.

The state regulates only the employer's obligation to establish part-time working hours for certain categories of employees (pregnant women, one of the parents (guardian, Trustee) who has a child under 14 years of age (a disabled child under 18 years of age), as well as a person who takes care of a sick family member in accordance with a medical report.

In the Russian labor legislation, the establishment of part-time work at the initiative of the employer is more specific and highlighted in a separate article, according to which part-time work can be established at the initiative of the employer in cases where reasons related to changes in organizational or technological working conditions may lead to mass dismissal of employees, the employer to preserve jobs has the right taking into account the opinion of elected body of primary trade-Union organizations to introduce a regime of incomplete working day or incomplete working week for a period of up to six months (article 74 of the LC RF).

As A.M.Lushnikov emphasizes, such an initiative should be caused precisely by reasons related to changes in organizational or technological working conditions that may lead to mass dismissal of employees. Only on the basis of this the employer in order to preserve it has the right to introduce part-time work for a period of up to 6 months [11].

In Germany, part-time work is regulated by the Law of 21.12.2000 no. BGBl "On part-time employment and restrictions related to working time", which entered into force on January 1, 2001 [12]. According to this Law, it is common for both women and men with any qualifications to assign part-time work to an employee. Employees who have worked at the company for more than six months may require part-time work. The employer, in turn, is obliged to satisfy this requirement of the employee, if this does not in any way harm the production. The employer's legal refusal to make such a request is based on four reasons [13]:

the company does not have a reserve labor force or cannot hire additional labor with appropriate qualifications;

high costs;
reducing the competitiveness of the enterprise and creating a threat to its existence;
significant damage to the organization or production process.
This Law applies to all enterprises with more than 15 employees and to all categories of employees.

In accordance with the law "On part-time employment", an employee can, if desired, reduce the period of working time under the contract to any amount. At the same time, it is established that if an employee has made a decision to transfer to part-time work, he / she cannot further require the employer to transfer to full-time work. An employee can only be transferred to part-time employment for a limited period of time with the consent of the employer [14].

An interesting fact is that in Germany, part-time work for older workers is regulated in an extremely unusual way. This is a special model of flexible part-time work that allows older workers to move smoothly into retirement. As some scientists write, "in introducing part-time work for employees of retirement age, legislators see an opportunity to redistribute labor by simultaneously attracting young people to the enterprise, including students, and transferring the experience of older workers to younger ones. Under this model, employees who have reached the age of 55 reduce their working hours by 50%, but their wages after deducting all taxes are reduced to only 70% of the previous amount. Thus, the employer increases the monthly amount of payments by 20%, but the increased costs are reimbursed by the Federal Agency responsible for employment [15].

The right to switch to part-time work by age is stipulated in industry tariff agreements or in collective agreements concluded at enterprises. Currently, in Germany, the use of part-time work by age is fixed in almost 850 industry tariff agreements and approximately 9 thousand collective agreements [16].

The French labour legislation addresses the issue of part-time work as follows. Part-time work is considered to be less than the normal working hours established by law or a collective agreement.

According to V.S.Kozlov in France, part-time work is defined as working time that is shorter by at least 1/5 of the working time established by law or contract for the relevant activities or enterprises [17].

In cases stipulated by the collective agreement or on other legal grounds, the employee has the right to demand from the employer set them a part-time job (for example, to fulfill their family responsibilities).

Unlike the labor legislation of the Republic of Uzbekistan, French legislation provides a wide range of guarantees for part-time employees. If we analyze it, we can see that the legal regulation of part-time work in France differs from that provided for in the Labor Code of the Republic of Uzbekistan, and is more suitable for the legal structure of reduced working hours due to the following provisions. The remuneration received by a part-time employee must be proportional to the remuneration received by a person of equal qualifications who performs the same labor functions during full-time work in an institution or enterprise, taking into account the hours worked and length of service in this enterprise, and such employees are entitled to receive bonuses for years of service on a General basis [18].

In the UK, part-time work is regulated by the Rules "on the prevention of less favorable treatment of persons working on a part-time basis. (Part-time Workers Prevention of Less Favorable Treatment Regulations 2000) [19]. These rules serve as a basis for preventing infringement of the rights of part-time employees by the employer in comparison with employees employed on a full-time basis.

In particular, this is reflected in the prohibition of establishing less favorable working conditions for them (for example, conditions of remuneration, access to employer pension schemes, granting the right to training, retraining, advanced training, providing annual paid leave, etc.). Exceptions are cases when the establishment of less favorable conditions of an employment contract or other worsening situation of part-time employees is due to objective reasons. For example, paying less overtime is not considered a deterioration in the employee's situation if the total working time worked by the employee exceeds the normal working hours of a comparable full-time employee.

The establishment of a part-time working regime for an employee who was initially hired on a full-time basis is possible only after the conclusion of a corresponding agreement in writing and its registration with the labor Inspectorate [20].

Also, the UK legislation contains a number of additional measures aimed at protecting this category of employees. In particular, it prescribes that the written form of an employment contract is mandatory for part-time employees and that conditions on working hours are included in it [21]. Failure to comply with the written form does not automatically result in the agreement not

being concluded. However, if a dispute arises and an employee files a claim, the court may recognize the employee as a full-time employee.

Another interesting point is that some categories of part-time employees who need special protection from the state, in particular, students; persons with children under the age of thirteen; persons whose spouse, parent or child suffers from cancer; persons whose family member belongs to the category of people with disabilities have the right to return to the originally agreed working hours if they previously worked full-time [22].

Moreover, when an employer fills vacancies, the right to provide full-time jobs is primarily granted to part-time employees. Priority is given to employees who have previously been transferred from full-time to part-time work. In the UK, a special case of introducing part-time work is the conclusion of so-called solidarity agreements, which have become widespread in recent years. In General "a solidarity agreement is an agreement concluded at the local level of social partnership to establish a part-time working regime for employees employed on a full-time basis.

Depending on the purpose of the conclusion, there are two types of it: 1) a solidarity agreement aimed at preventing mass job cuts, which is similar to the legislation of the Russian Federation, and 2) a solidarity agreement aimed at creating reserves for hiring new employees.

A distinctive feature of the first type of solidarity agreements is the partial compensation guaranteed by the state for employees who lost their earnings as a result of a reduction in the standard of working

hours. As a General rule, the amount of compensation is up to 60 % of lost earnings [23]. The term of the agreement is determined by the parties, but may not exceed 24 months. They are also entitled to a one-time extension of the agreement for no more than 24 months.

The conclusion of solidarity agreements of the second type is perceived as one of the measures to combat unemployment.

The analysis of foreign legislation allows us to formulate a proposal to introduce a separate article into the Labor code, taking into account the experience of foreign countries, dedicated to the transition to part-time work in the event of force majeure.

In this article, to provide that the employer may warn the employee not later than two weeks to install in the enterprise part-time work, in connection with reduction of volume of works (services), which was caused by reasons beyond the employer's force majeure: with the introduction of a state of emergency or the situation; epidemics; epizootic diseases; pandemics and in other cases endangering the life or health of the whole population or its part.

It should be noted that the output of part-time employees is significantly higher than that of full-time employees, which also contributes to the use of part-time work by employers.

Part-time work allows employees to combine their work activities with other types of employment. Significant growth in industry infrastructure and services has significantly expanded the opportunities for women to work. For many of them who have children, part - time work is the only way to work. Full-time students also prefer to work part-time.

Older people would also like to work part-time.

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