



Changes in the labour inspection rules

KPMG Legal Tóásó Law Firm

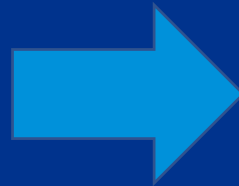
18 March 2021

Changes effective from 1 March 2021

From 1 March Act No. CXXXV of 2020 on Labour Inspection, Employment Services and Grants entered into force and Act No. LXXV of 1996 on Labour Inspection has been repealed.

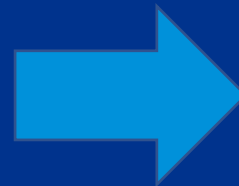


**Employment
authority**



**Employment
supervisory
authority
("Authority")**

**Labour
inspection**



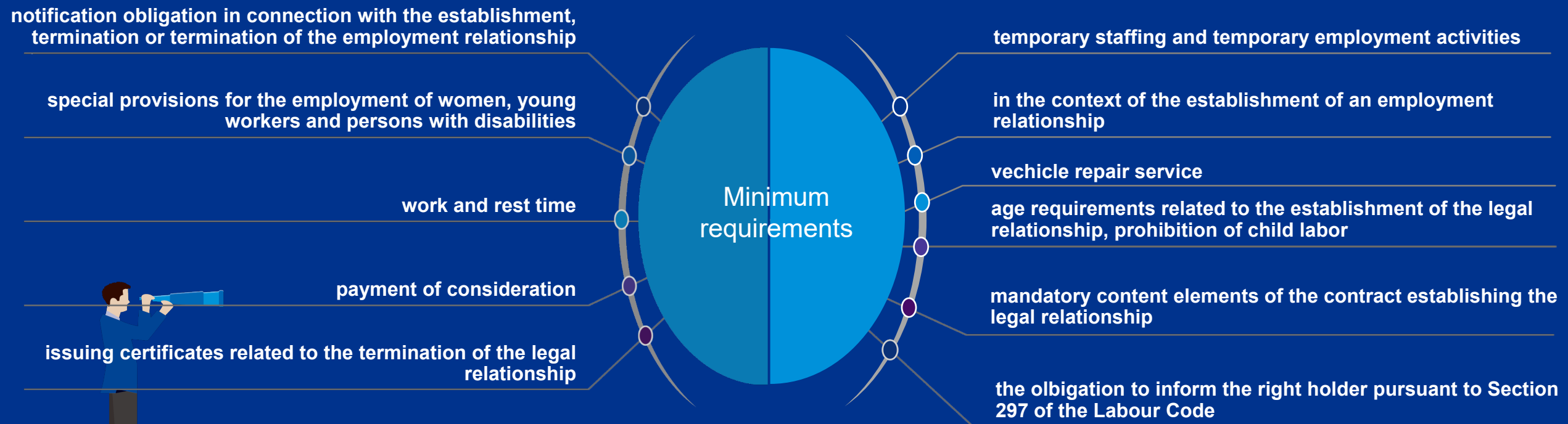
**Employment
supervisory
inspection
 („Inspection”)**

Labour inspection was replaced by Employment supervisory inspection and the role of the employment authority has been taken over by the employment supervisory authority.



The minimum requirements

The Authority monitors the employer's compliance with the minimum requirements of the legislation regulating the employment relationships.



Rights of the Authority during the Inspection (1)



01

Classification of the legal relationship between the employer and the employee

Monitoring the fulfillment of commitments regarding employment aid

02

03

Determining the identity of the employer on the basis of a presumption, if the actual employer cannot be identified

Conducting on-site inspections at all employment sites without special permission and prior notification

04

According to which the employer is,

1. Who is responsible for coordinating the activity according to the contract (agreement) between the parties operating in the workplace,
2. Who is actually managing the activity in the workplace,
3. Whose property the work is conducted on

Rights of the Authority during the Inspection (2)



05 Reviewing and making copies of recordings made by security equipment at the inspection site

05

06 Reviewing and making copies of data recorded by equipment monitoring the entry into and exit to the place of employment

06

07 Establishing the identity of persons involved in the inspection by means of an identity check

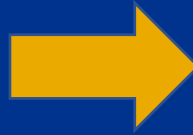
07

08 Requesting the information necessary for the inspection from these persons, hearing these persons as witnesses

08

Sanctions applicable by the Authority

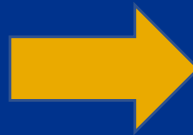
In addition to the provisions of the Act on Sanctions for Administrative Violations, the Authority may provide for the following:



- Prohibition on future employment,
- Issue labour fine.



The Authority may also provide for the following measures:



- It may impose an obligation on the employer in order to establish an infringement or to put an end to one,
- Establishment of an employment relationship and notification obligation,
- Under certain conditions it may determine the liability of a main contractor or a subcontractor with whom the main contractor has legal relationship,
- In certain cases it may notify the tax or immigration authority.

The comparison of the "old" Act LXXV of 1996 on Labour Inspection and the Act CXXXV of 2020 on Labour Inspection, Employment Services and Grants

Changes

- Employment authority changed to Employment supervisory authority;
- The limitation period had been shortened from 3 year to 1 year from the date of the Authority's knowledge to apply the sanctions;
- In the proceedings of the Employment supervisory authority, the employer who is established in Hungary or a foreign employer which was obliged by the Authority to provide data based on EU rules shall constitute as client.
- There is a change in the fine structure, according to which the Authority may impose a fine in its discretion (e.g. if the employer did not comply with the obligation concerning the reporting of any employment) or shall impose fixed fines (e.g. employment of third country nationals without the necessary permits)

Novelties

- Introduced minimum requirements;
- The Authority may oblige the employer to make a notification on the employment relationship;
- The Authority may apply prohibition on the future employment as a sanction;
- The register of the Authority contains the personal identification data, address and tax identification number of the employer if being a natural person;
- During the inspection, the Authority is entitled to
 - review and make a copy of the recordings made by the security system at the place of inspection
 - establish the identity of the persons involved in the inspection by means of a certificate etc., and to request from such persons the information necessary for the inspection

The effective date of the new rules



Act CXXXV of 2020 on Labour Inspection, Employment Services and Grants is effective from 1 March 2021.



Government Decree 115/2021. (III. 10.), as the implementation decree of the above Act is effective from 11 March 2021.

Contacts



dr. Bálint Tóásó MSc
LL.M (Bécs)
Managing Partner, Head
of Legal Services
T: +36 30 663 6245
E: balint.toaso@kpmg.hu



dr. Boglárka Kricskovics-Béli
Attorney-at-law
T: +36 70 520 4507
E: boglarka.kricskovics-beli@kpmg.hu



dr. Tamás Tasnádi
Associate
T: +36 70 333 1475
E: tamas.tasnadi@kpmg.hu



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