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**FEATURES OF LEGAL REGULATION OF LABOR OF INDIVIDUALS
WORKING OUTSIDE THE EMPLOYER'S LOCATION**

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GENERAL DESCRIPTION OF WORK

The relevance of the topic of dissertation research. The development of the economy in the Russian Federation largely depends on development effectiveness of the sources of raw materials and deposits of minerals which are located in remote areas of the country. The solution of this task is impossible without the active use of labor by persons working outside the employer's location. Thus, with the development of resources in the Far North and in areas equated to it, the shift work organization has become widespread, one of the main advantages of which is that it allows more efficient use of interregional and intraregional labor resources.

Meanwhile, the legislation of the Russian Federation does not pay enough attention to the issues of regulating the work of people working outside the employer's location, that is, carrying out work at home, remotely, by shift method, in the field, or whose work is of a traveling nature. The legal regulation of labor in these categories of workers does not yet fully meet the needs of practice.

In particular, a number of articles of chapter 49.1 of the Labor Code of the Russian Federation, "Specific features of regulating the work of distance workers", needs to be improved. In addition, the norms of the Labor Code of the Russian Federation do not contain the term of "traveling nature of work", as well as a list and criteria for determining the work carried out in transit, in the field, expeditionary work, traveling and moving works. In the labor legislation and in other regulatory legal acts regulating labor relations, there is no list of employees performing such work.

There is a lag in the legal regulation of labor relations under the shift method of organizing work from modern requirements. The norms of Chapter 47 of the Labor Code of the Russian Federation regulating the work of persons engaged in shift work are predominantly reproduce the content of the Basic Provisions on the shift method of organization of work in 1987, developed and adopted in other socio-economic conditions.

The current labor legislation does not contain guarantees to prevent the employer from approving such a schedule of work on the watch, the provisions of which unreasonably worsen the working conditions of shift workers, requires a more precise legal regulation of the procedure for determining the suitability of an employee to work by the shift method. The indicated gaps and omissions allow employers employing the shift method to interpret differently the articles of the Labor Code of the Russian Federation, to evade fulfillment of obligations in the relations of social partnership, which contributes to creating conditions for violation of labor rights of employees.

However, the task of improving the labor legislation regulating the execution of work by the shift method, in the field or in the work of a traveling or mobile nature, of home and distance work can not be successfully resolved without theoretical understanding of the peculiarities of the legal regulation of the work of persons working outside the employer's location.

However, the analysis of modern domestic literature on the problem of the distance employment shows the absence of fundamental scientific works on this issue. Often there is a substitution of distance work by home work, which is not legitimate. There was no integrated understanding of the concept of distance employment, as evidenced by the lack of a clear definition of this concept. The sources use different terms: remote work, telework, distance work, freelance, electronic homework. However, the 21st century is an era of rapid development and introduction of a variety of digital technologies into everyday life. Distribution of mobile telecommunication devices, creation of remote workplaces, conducting geographically distributed business online, the robotization of production forces the evolution of labor relations that arise between the employer and the employee. The above indicated determines the relevance of the chosen topic of the dissertation research.

Degree of elaboration of the topic of the dissertation research. In the scientific legal literature, the separate aspects of the legal regulation of the work of persons working outside the employer's place were devoted to the work of such

academic lawyers as NG. Aleksandrov, V.S. Andreev, V.V. Glazyrin, K.N. Gusov, L.V. Zaitseva, O.B. Zaitseva, T.Yu. Korshunova, V.I. Krivoi, A.M. Kurennoy, R.Z. Livshits, A.M. Lushnikov, MV Lushnikova, E.G. Martirosyan, A.F. Nurtdinova, A.Ya. Petrov, Yu.S. Sergeenko, V.N. Tolkunova, E.B. Khokhlov and others.

There are no works of a monographic type, in which the problem of the legal regulation of labor of persons working outside the employer's place is being investigated in a comprehensive manner. The dissertational studies on this issue have not been conducted.

Thus, the complexity and scope of the tasks that arise before the legislative and law enforcement practice in the field of regulating the work of people working outside the employer's location, while the lack of elaboration of this problem in the scientific legal literature has led to the choice of the topic of the present dissertation research.

Goal and targets of the dissertation research. The main goal of the work is to develop a new modern concept of the legal regulation of the work of persons working outside the employer's location and to determine ways to improve it on the basis of the current legislation of the Russian Federation and judicial practice.

Realization of this goal implies the solution of the following tasks:

- 1) identification of the peculiarities of the formation and development of labor legislation for persons working outside the employer's location;
- 2) clarification of the content of the shift work method;
- 3) determination of the specifics of the concepts of traveling and mobile work, work in transit, in the field and expeditionary nature;
- 4) identification of the specifics of the concepts of home-based and distance work;
- 5) determination of the peculiarities of working hours and rest time for persons working outside the employer's location;
- 6) consideration of the specifics of the legal regulation of guarantees and compensation for persons working outside the employer's location.

Theoretical and methodological basis of the research.

The theoretical basis of the research was the scientific works of leading domestic scientists dealing with the problems of labor law.

The methodological basis of this dissertational research was the dialectical method of cognition, as well as such private scientific methods of investigation as historical, legal, system-structural, concrete-sociological, comparative-legal, statistical.

Normative - legal and empirical basis of dissertational research. The provisions and conclusions of the dissertation study are based on the provisions of the Russian labor legislation and other normative legal acts. The empirical basis of the dissertation research was the materials of judicial practice.

Object and subject of the research. The object of this dissertation research is a complex of labor relations that arise and function in the process of using labor of persons working outside the employer's location.

The subject of the dissertation research is the legislative and subordinate regulatory legal acts governing the work of individuals, working outside the employer's location.

The scientific novelty of the thesis is manifested in the fact that for the first time in the science of labor law on the basis of a systematic approach, a comprehensive study of the peculiarities of the legal regulation of the work of persons working outside the employer's location has been carried out.

In addition, the scientific novelty of the study is determined by the provisions imposed on the defense.

The main conclusions and theses of the dissertation research, put on defense:

1. The specific nature of the place of performance of the labor function is a factor in the differentiation of labor legislation. The defining features of the legal organization of labor are:

1) the nature of the work area. Depending on the nature of the area: work in the Far North; in the areas equated to the regions of the Far North, other areas and territories established in the legislation

2) the location of the workplace in relation to the place of work. Depending on this factor, there are:

- the workplace and place of work overlap;
- home work (chapter 49 of the LC RF): the workplace is located at the place of residence of the employee;
- shift work method (chapter 47 of the LC RF): the workplace is located at a distance from the location of the employer organization;
- work abroad for persons sent to diplomatic, consular missions and representative offices of federal public authorities, state institutions (Chapter 53 of the LC RF);

3) stability of the workplace. Depending on this factor, the following types of labor organization are distinguished:

- in a permanent workplace;
- traveling character;
- in the field.

2. The content of the concept of shift work method of organization of work is broader than follows from the definition fixed in the labor legislation. It includes:

- organization of the labor process outside the permanent residence of employees;
- the previous organizational activities associated with the selection of workers and the preparation of shift camps;
- accompanying organizational activities aimed at the social welfare of employees, the establishment of benefits and compensations for them, etc.

3. Inter-vacation rest can not be reduced to any of the types of recreation provided for in Art. 107 TC RF, and is an independent type of recreation.

4. The analysis of the concepts of traveling and mobile work, work in transit, in the field and expeditionary nature made it possible to identify similarities and differences between the types of work and formulate their definitions:

1) work of a traveling nature - work performed at facilities outside the employer's location, associated with regular service trips within the territory (s) being serviced, subject to the possibility of a daily return to the place of residence;

2) work of a mobile nature - work performed at a remote site, when the employee is unable to return to his place of permanent residence on a daily basis;

3) work on the road - the employee's performance of the labor function directly during the movement, and the place of work when working on the road is not a stationary object;

4) work in the field - work carried out outside the settlements of urban type, outside the employer's location and characterized by the unsettled work and life of workers;

5) work of expeditionary nature - work in the field, performed by a specially equipped expedition (i.e. a team of workers who have a task to conduct work in the field).

5. It is advisable to fix legislatively the opportunity to provide employees who perform work of mobile, traveling nature, on the road, in the field (including expeditionary nature), to get an additional leave regardless of the working time regime that is established for them. To this end, we propose to supplement the Russian Federation TC Article 119.1 with the following content:

"Article 119.1. Annual additional paid leave for workers, whose permanent work is carried out on the road or has a traveling or mobile character, as well as work in the field, expeditionary work.

Employees, whose permanent work is carried out on the road or has a traveling or mobile character, as well as workers working in the field or participating in expeditionary work, are granted an annual additional paid leave of not less than three calendar days. "

6. A separate problem of studying of the chosen sphere is the fact that the normative regulation of the situation of workers whose work is of a traveling nature is complicated by the insufficient volume of legislation that meets modern legal realities. For example, the list of occupations, posts, categories of river workers, road transport and roads, which are paid extra due to the constant work on the road, the traveling nature of the work, as well as on business trips within the areas served by them, is established by Resolution of the Council of Ministers of the RSFSR of 12.12. 1978 No. 579. A similar situation has developed in the field of regulatory regulation of works carried out on the road, works of a mobile nature, work in field and expeditionary conditions. It is proposed to introduce into the Labor Code of the Russian Federation a special article regulating the procedure for providing employees who are engaged in working activities on the road, on the road and in the field, extra charges for the nature of their work.

7. According to Art. 310 of the Labor Code of the Russian Federation “homeworkers are persons who have entered into an employment contract for doing work at home ...”. However, it does not define the concept of "home". We propose to change the wording of article 310 of the Labor Code of the Russian Federation: “Persons who have entered into an employment contract for performing work at the place of residence are considered homeworkers.”

8. In accordance with Art. Art. 312 and 312.5 of the LC RF, outworkers and remote workers can be dismissed at the initiative of the employer under the conditions stipulated in the employment contract. In our opinion, these norms give the employer the right to legitimately worsen the situation of such employees in comparison with the current labor legislation. In this regard, we propose in art. Art. 312 and 312.5 of the LC RF to add the following content:

Article 312. Termination of the employment contract with homeworkers

Termination of the employment contract with homeworkers is carried out on the grounds provided by this Code.

Part 1 of Art. 312.5 Termination of an employment contract on distance work on the initiative of the employer is made on the grounds provided for by this Code.

9. It seems that to ensure the normal duration of working time and rest time for distance workers, it is necessary to limit the time for issuing the assignment and the time for transferring the work done to a certain hour during the day and to include this provision as a mandatory condition in the employment contract.

Theoretical and practical relevance of the research is that the theoretical propositions formulated in it can be used to further study the problems of labor law.

The author gives a description of the genesis of the legal regulation of the work of persons working outside the employer's location, specifics of the working time and rest time of home, distance workers, the persons performing work on a shift basis, in the field or work of a traveling or mobile nature, specifics of the legal regulation of guarantees and compensation to these workers.

The practical relevance of the research is that the theoretical and methodological provisions contained therein have been brought to the level of practical recommendations, and can be further used in the development of concrete measures aimed at improving the legal regulation of the work of persons working outside the employer's location.

Degree of reliability and approbation of the results of the study. Dissertational work is executed, discussed and approved at the Department of Labor Law and Social Security Law of the Higher School of Economics. The results of the research were also tested during the teaching activity of the course "Labor Law" at the Department of Labor Law and Social Security Law of the Higher School of Economics.

The provisions of the dissertation research and conclusions to be defended are reflected in scientific articles, including those published in journals recommended by the Higher Attestation Commission of the Ministry of Education and Science of the Russian Federation.

The reliability of the obtained research results is ensured by the use of regulatory and legal acts of the Russian Federation, acts of law enforcement and domestic doctrine in the field of labor law.

The volume and structure of the dissertation. The thesis is executed in a volume corresponding to the requirements of the Higher Attestation Commission of the Russian Federation. The work consists of an introduction, four chapters, comprising 11 paragraphs, a conclusion, a bibliographic list.

BRIEF SUMMARY OF WORK

In the introduction, the relevance of the topic of the dissertation research is substantiated, the subject, goals and targets of the research are determined, the methodological approaches are set out, the scientific novelty is substantiated, the main provisions of the thesis are put on defense, data on the theoretical and practical significance of the dissertation research, and on the approbation of the results obtained.

In the first chapter - "General provisions on the work of persons working outside the employer's location", the formation and development of the legal regulation of labor of persons working outside the employer's location and its essential characteristics are considered.

In the first paragraph of the first chapter, the genesis of the legislation on labor of persons working outside the employer's location is analyzed.

The forerunner of the work in the field can be considered the kind of crafts known since the times of Ancient Rus. The work was carried out by the artel on a contractual basis and the relationship between the artel and the customer was of a civil nature. But the organization of work, the distribution of labor duties and the distribution of money received for the work performed were carried out by agreement between the members of the artel, and the relations regarding the performance of the labor function, had the features of labor, regulated by the

norms of customary law and the provisions of the contract concluded between members of the artel.

During the reign of Peter I, the labor outside the employer's location was widely used. Large-scale construction work conducted in a new capital of the Russian Empire - St. Petersburg which had been founded in a sparsely populated area at that time, demanded new forms of attracting labor powers and organizing work. To do this, they began to recruit workers in large batches for a certain time, which were then replaced by others. Thus, a prototype of the shift method of organization of work arises.

However, the Russian labor legislation until the XIX century was generally a set of disparate regulatory legal acts that regulated a limited range of issues of hiring workers and their labor. In the main, the legislative acts which were issued at that time were devoted to the regulation of the work of registered peasants and hired workers at state and private factories. The legal regulation of the work of persons working outside the employer's location was of an episodic nature and was carried out mainly by normative legal acts issued on a specific occasion and valid for a limited number of persons.

A system of labor (factory) legislation in the Russian Empire began to develop in the XIX century. But the legal regulation of labor outside the employer's location, despite the process of systematization of the labor legislation that had begun, continued to be carried out by separate regulatory legal acts. At the same time, the general trend towards strengthening labor protection, ensuring workers' rights to decent working conditions and wages, affected the legal regulation of the work of workers whose work was traveling or carried out in the field. Normative legal acts regulating the work of such employees introduce rules aimed at compensation of travel expenses and performance of labor duties in the field conditions, as well as to increase the payment and improve the working conditions of such employees.

In the Soviet period, the work of people working outside the employer's location was regulated by subordinate regulatory legal acts. In the late 20-ies of

the twentieth century, a different legal regime was established for the business trips and for trips related to the traveling nature of the work. Departmental acts were adopted on the issues of labor organization, ensuring labor protection and ensuring safe working conditions when carrying out work in the field.

At the end of the 1950s, the shift work method began to develop, used in the development of areas of little use for living, with the inadvisability of daily delivery of workers to and from work. The practice of applying the shift method of organization of work was generalized and normatively fixed by the Model Provision on the shift method of organization of work approved in 1981. This provision meant a new stage in the development of legal regulation of labor outside the employer's location. Its norms determined the further development of legislation in this sphere. At the same time, the practice of applying the Model Provision has revealed gaps in the legal regulation of labor using the shift work method. In particular, the norms regulating the procedure of benefits for shift workers, compensation for special work order, organization of medical care, etc., needed to be improved. Therefore, in order to eliminate the gaps in the legal regulation and improve the legislation regulating the use of the rotational method of organization of work, in 1987 the Basic Provisions on the shift method of organization of work were developed and adopted.

By the beginning of the XXI century, the development of legal regulation of labor outside the employer's location led to the fact that normative legal acts clearly defined the traveling nature of labor, the method of organization of work and in the field. These approaches to regulating relations in the world of work outside the employer's location were used by the legislator in the development and adoption of the Labor Code of the Russian Federation.

In the second paragraph of the first chapter, the features of working outside the employer's location as the basis for differentiating labor laws are examined.

Analysis of the peculiarities of the legal regulation of labor, depending on the place of work and the characteristics of the workplace, shows that the

properties of the place of direct performance of labor functions exert a certain influence on the legal regulation of labor of workers, thus acting as a factor in the differentiation of labor legislation. Differentiating factors that determine the peculiarities of the legal regime of labor are the following characteristics: 1) the nature of the work site; 2) the location of the workplace in relation to the place of work; 3) stability of the workplace.

Depending on the nature of the work area, the following work regimes can be distinguished: work in the Far North; in the areas equated to the regions of the Far North; Work in other localities and territories established in the legislation.

Depending on the location of the workplace in relation to the place of work, one can single out: the workplace and the place of work (location of the organization of the employer or its structural subdivision) are the same; home work (chapter 49 of the LC RF): the workplace is located at the place of residence of the employee; shift work method (chapter 47 of the LC RF): the workplace is located at a distance from the location of the employer organization; work abroad for persons sent to diplomatic, consular missions and representations of federal bodies of the state power and state institutions (Chapter 53 of the LC RF).

Depending on such factor as the stability of the workplace, it is possible to single out work in a permanent workplace; traveling character; in the field.

In the second chapter - "Peculiarities of the legal regulation of labor of persons working on a rotational basis" - the Russian legislation on the shift work method is analyzed.

In the first paragraph of the second chapter, the concept and content of the shift work method of organization of work are researched.

The peculiarities of the work of persons working on a rotational basis are regulated in Chapter 47 of the Labor Code of the Russian Federation. Working by the shift method, in a part that does not contradict the Labor Code of the Russian Federation, is also regulated by the Basic Provisions on the shift method of organization of work. The legislative definition of the shift method of organization of work is fixed in Art. 297 of the Labor Code of the Russian

Federation, according to which the shift method is a special form of implementation of the labor process outside the place of permanent residence of workers, when their daily return to their place of permanent residence can not be ensured. From the legal definition of the rotational method of organization of work, two main features are distinguished that distinguish this method from the usual ways of organizing work: doing work outside the place of permanent residence of workers and the impossibility of their daily return to this place.

Analysis of the legal formulation of the term "shift method of organization of work" shows that the Russian legislator, although defining this method as a form of implementing the labor process, but in fact subjecting legal regulation, in addition to issues related to the organization of the labor process outside the place of permanent residence of workers, also issues directly not related to the labor process itself, but closely related to it: for example, questions of social welfare of employees, the establishment of benefits and compensation to employees, etc..

Thus, it can be concluded that the content of the concept of the rotational method of organization of work "goes beyond the concept of the form of implementation of the labor process. The shift method should be viewed as a form of labor organization in a broad sense, where the organization of labor is understood as a way of connecting people with the means of production and with each other in the process of labor.

In the second paragraph of the second chapter, the characteristics of the working hours of persons working on a rotational basis are analyzed.

In accordance with Part 1 of Art. 301 TC RF use of working time and rest time within the accounting period is regulated by the schedule of work on the watch. The schedule of work on the watch should be recognized as a local normative act, as it is designed for repeated application during the accounting period to an undefined circle of persons, applies both to employees who are in labor relations at the time of its approval, as well as to persons who came to work after its adoption. At the same time, the employer is not required to coordinate the work schedule on the watch with an elected trade union body. This means that in

case of divergence in the positions of the employer and the organ of the primary trade union organization regarding the schedule, the employer should consider the opinion of the organ of the primary trade-union organization in the manner provided for in Art. 372 of the LC RF. If the consent is not reached between the employer and the trade union body, the legislator grants the employer the right to adopt a local normative act, and the elected body of the primary trade union organization to appeal this act to the appropriate state labor inspectorate or to the court, or commence a collective labor dispute procedure.

However, the current labor legislation does not contain guarantees to prevent the employer from approving such a schedule of work on the watch, the provisions of which unreasonably worsen working conditions for shift workers. In our view, it is possible to correct the situation by taking the following measures.

Firstly, to change the procedure for approving the schedule of work on the watch, obliging the employer to obtain the consent of the relevant trade union body of the organization or collective of workers for approval of the schedule;

Secondly, to enter the norm that the action of the local normative act adopted by the employer into the Labor Code of the Russian Federation, which has become the subject of a collective labor dispute, is suspended until the dispute is resolved in accordance with the procedure established by law. In the specified period, the work of the watch should be carried out according to the previous schedule.

Thirdly, to oblige the employer to inform the elected trade union body of the organization of employing workers who perform shift work, to overtime work with the provision of an appropriate extract from the time sheet.

Consideration of the legal regulation of the working hours of persons working on a rotational basis showed that the legislator gives the employer using the shift work method of work more opportunities in determining the duration of the shift and the daily (inter-shift) rest of employees (within the accounting period) than under normal working conditions. As a result, the possibility of approving the work schedule on the watch, unreasonably worsening the situation

of employees, as well as the risk of the employer's failure to recognize the work performed as overtime in the case of processing beyond the normal working time and beyond the work schedule on the watch.

In the third paragraph of the second chapter, problems of the legal regulation of the rest time for persons working on a rotational basis are considered.

Legal regulation enshrined in Art. 107 107 the Labor Code of the Russian Federation types of rest for the shift work method differs some features. The Russian legislator does not regulate the duration of the daily (inter-shift) holiday. As a general rule, the operating mode in the organization is set in such a way that the minimum duration of daily (interchange) rest together with the lunch break is at least twice the duration of the work on the day preceding the rest (shift). At the same time, when using the rotational method of organization of work, the duration of daily (inter-shift) rest of workers, taking into account lunch breaks, can be reduced to 12 hours. Unused in this case, the hours of daily (between shifts) and days of weekly rest are summed up and provided in the form of additional days off from work (days between rest parties) during the accounting period.

Thus, with regard to the shift method, the Russian legislator sets the minimum duration of daily (inter-shift) rest, but does not regulate the length of the weekly rest.

For workers performing work on a rotational basis, Russian labor legislation provides for a special type of rest - inter-vacation recreation. Its peculiarity lies in the fact that it simultaneously contains the features of a daily (inter-shift) holiday, a weekly continuous rest and vacation. At the same time, the between-wagering rest can not be reduced to any one type of rest provided for in Art. 107 of the LC RF.

In the fourth paragraph of the second chapter, guarantees and compensations for persons working on a rotational basis are considered.

The Russian labor legislation establishes four types of compensation payments to persons performing work on a rotational basis: The basic provisions

on the shift work method also provide for the employer to pay travel of workers from their place of permanent residence to the collection point and place of work (facility, site) and back. However, this rule was declared invalid by the Supreme Court of the Russian Federation in terms of the obligation of the employer to pay the costs of employees for travel from the place of residence to the collection point. The basis for such a decision was that this requirement does not comply with the Decree of the Government of the Russian Federation of 05.08.1992 No. 552.

However, this decision has now become invalid, and in departmental normative legal acts this issue is considered ambiguously, and the provisions of these acts do not allow to exclude from the cost of production costs for the payment of travel of workers from the place of residence to the point of collection that can be considered as part of expenses on the delivery of the worker from the place of residence to the place of shift work.

We believe that the refusal to impose on the employer the obligation to pay for the travel of workers from their place of residence to the collection point somewhat reduces the guarantees to persons working on a rotational basis. Therefore, in order to better ensure the rights and legitimate interests of workers performing work on a rotational basis, we consider it expedient to fix in the Labor Code the provision on the obligation of the employer to pay for the travel of workers from their place of residence to the collection point and back.

In the third chapter - "Peculiarities of the legal regulation of labor of persons working on the road, in transit and in the field" - the forms of work of persons working outside the employer's location are being researched.

In the first paragraph of the third chapter, the concepts of traveling, work in transit, in the field and expeditionary work are analyzed.

The RF TC does not define the concept of "traveling nature of work", nor does it determine the list and criteria for determining the work carried out in the way, works carried out in the field, expeditionary work, traveling and moving

works. In the labor legislation and in other normative legal acts regulating labor legal relations, there is also no list of employees performing these works.

In general, such categories as the traveling nature of the work, the mobile nature of the work, the work carried out in transit, the work in the field, the work of the expeditionary nature are estimated, so that the employer is authorized, on the basis of local regulations, to determine independently the list of such works and their relevance to in one category or another. An analysis of the labor legislation and judicial practice shows that the traveling nature of the work consists in performing work at facilities outside the employer's location, but at the same time employees have the opportunity to return to their place of permanent residence on a daily basis.

Moving work is a work performed at a remote site when the employee is unable to return to his place of permanent residence on a daily basis. The mobile nature of the work differs from the traveling one, the impossibility for an employee to return to his or her place of permanent residence on a daily basis.

At the same time, the mobile nature of the work is different from the shift work method. If the shift method of organization of work is associated with a regular departure to an object remote from the place of permanent residence of the workers, then the mobile nature of the work consists in a single departure and work at such an object.

The specificity of the work in the way is that it is performed in the process of movement, and not at a stationary object. This distinguishes work on the road from traveling and moving jobs and from shift work, in which the work itself is carried out at a stationary facility, but remote from the employer's location and the permanent residence of workers. When the working on the road, the labor function is carried out directly during the trip, and in the case of traveling and moving jobs or shift work, the labor function is not performed while the employee is on the road. Thus, under the work in the way it is necessary to understand the performance of the labor function by the worker directly during the movement, i.e. that is the place of work when working on the road is not a stationary object.

Work in the field is a work carried out outside the urban settlements, outside the employer's location and characterized by the lack of accommodation and the mode of life of the workers.

Attention is drawn to the fact that the laws and the by-laws that do not use the concept of expeditionary work, use it as a synonym for work in the field (the concept of work in the field can be used independently, without simultaneous indication of expeditionary work). Thus, one can name the concepts of work carried out in the field and expeditionary work, similar to each other, considering the work of the expeditionary nature as a kind of work in the field, but carried out by a specially equipped expedition (to wit, a team of workers who have a task to carry out work in the field).

In the second paragraph of the third chapter, the peculiarities of the working time and rest time for people working on the road, in transit and in the field are considered.

For workers whose work is mobile, carrying out the work in transit, the field conditions are usually set for a non-standard working day. It should be recognized that the problem of observing the rights of employees working in the regime of an irregular working day exists and is very acute. In the legal literature there was a point of view on the expediency of refusing to retain in the labor legislation the possibility of establishing a regime with an irregular working day for workers.

However, such a cardinal solution of this problem, as a prohibition of such a regime of working time in general, seems excessively radical and does not correspond to the real working conditions of workers performing work of traveling, mobile nature, on the road or in the field.

According to Art. 101 of the Labor Code of the Russian Federation, it is only occasionally possible to involve employees who are in the mode of a non-standardized working day, to perform their labor functions outside the time limits set for them, only occasionally, rather than on a regular basis. Meanwhile, in carrying out the work of a traveling and mobile character, on the road or in the

field, the employee is regularly forced to work overtime due to the need to carry out the work begun.

In order to better ensure the labor rights of workers with an irregular working day, we suppose it is appropriate:

1) to acknowledge the work performed in excess of incidental work outside the established working time, as overtime and extend to it the provisions of Art. 152 of the LC RF. For this it is necessary to supplement art. 101 of the LC RF by part three of the following content:

"Work outside the working hours set for the employee, performed second and more times a month or more than four hours, is considered overtime and paid according to the rules established by Article 152 of this Code";

2) to fix the right of the employer to employ an employee with a non-standardized working day to overtime work without obtaining a separate written consent of this employee. To this end, we suppose it is appropriate to supplement part three of Art. 99 of the LC RF by paragraph four of the following content:

"Performance of work by an employee for whom an irregular working day is established".

It is advisable to legislatively fix the opportunity to provide employees who perform work of mobile, traveling nature, on the road, in the field (including expeditionary nature), additional leave regardless of the working time regime that is established for them. To this end, we propose to supplement the Russian Federation TC Article 119.1 with the following content:

"Article 119.1. Annual additional paid leave for workers, whose permanent work is carried out on the road or has a traveling or mobile character, as well as work in the field, expeditionary work.

Employees, whose permanent work is carried out on the road or has a traveling or mobile character, as well as workers working in the field or participating in expeditionary work, is granted an annual additional paid leave of not less than three calendar days. "

A separate problem of studying the chosen sphere is the fact that the normative regulation of the situation of workers whose work is of a traveling nature is complicated by the insufficient volume of the legislative base that meets modern legal realities. For example, the list of occupations, posts, categories of river workers, road transport and roads, which are paid extra due to the constant work on the road, the traveling nature of the work, as well as on business trips within the areas served by them, is established by Resolution of the Council of Ministers of the RSFSR of 12.12. 1978 No. 579. A similar situation has developed in the field of regulatory regulation of works carried out on the road, works of a mobile nature, work in field and expeditionary conditions. It is proposed to introduce into the Labor Code of the Russian Federation a special article regulating the procedure for providing employees who are engaged in working activities on the road, on the road and in the field, extra charges for the nature of their work.

In the third paragraph of the third chapter, the specifics of guarantees and compensations for persons working on the road, in transit and in the field are considered.

In spite of the fact that the labor legislation regulates the provision of guarantees and compensations in sufficient detail, the reasons for their occurrence and the procedure for their provision, at the same time, the list of possible guarantees and compensations can not be limited only by enshrined explicitly in the labor legislation. In the case if the parties of labor relations come to the opinion that it is expedient to consolidate the rights of an employee that improve his position in comparison with the norms of the current labor legislation, the parties are entitled to establish them in local regulatory acts and collective agreements. There are no rules establishing this possibility, but there are norms in it that fix this option in some cases (see, for example, articles 168.1, 287, 313, 348.10 of the LC RF).

Thus, the law grants the parties to the employment contract the opportunity to independently fix the norms that improve the position of the employee in comparison with the general norms contained in the labor legislation.

In the fourth chapter - "Peculiarities of the legal regulation of work of home and distance workers", issues related to the right regulation of the work of persons working at home and remotely are examined.

In the first paragraph of the fourth chapter, the concept of home-based work and the features of its legal regulation are analyzed. According to Art. 310 of the Labor Code of the Russian Federation “homeworkers are persons who have entered into an employment contract for doing work at home ...”. However, it does not define the concept of "home". We propose to change the wording of article 310 of the Labor Code of the Russian Federation: “Persons who have entered into an employment contract for performing work at the place of residence are considered homeworkers.”

It should establish a ban for the employer to involve the employee systematically in overtime work, work on weekends and holidays at the employer's will, without taking into account the general requirements of labor legislation on the procedure and conditions for involving such work.

Home workers are covered by all guarantees established by the Labor Code of the Russian Federation with respect to the prohibition on dismissal during the period of illness of the employee, finding him on annual paid leave, guarantees established for employees by Article 261 of the Labor Code of the Russian Federation.

The second paragraph of the fourth chapter explores the legal regulation of the work of distance workers. Based on the analysis, we consider that it is necessary to consolidate the concept of the workplace of distance workers in Chapter 49.1 of the Labor Code of the Russian Federation. It is important to provide that in case of violation of the deadlines for the delivery of documents by mail, the parties of the employment contract will not be responsible for it, provided that this was not their fault.

Remote workers should enjoy the protection of the labor law in matters of limiting hours of work, increased pay for overtime, night work, weekends and non-working holidays in accordance with the legislation of the Russian Federation. It seems that to ensure the normal duration of working time and rest time for distance workers, it is necessary to limit the time of issuing the assignment and the time of transfer of work to a certain hour within a day and include this provision as a mandatory condition in the employment contract.

In accordance with Art. Art. 312 and 312.5 of the LC RF, outworkers and remote workers can be fired at the initiative of the employer under the conditions stipulated in the employment contract. In our opinion, these norms give the employer the right to worsen legitimately the situation of such employees in comparison with the current labor legislation. In this regard, we propose in art. Art. 312 and 312.5 of the LC RF to add the following content:

Article 312. Termination of the employment contract with homeworkers

Termination of the employment contract with homeworkers is carried out on the grounds provided by this Code.

Part 1 of Art. 312.5 Termination of an employment contract on distance work on the initiative of the employer is made on the grounds provided for by this Code.

In the conclusion, the main conclusions of the dissertation research are formulated.

Articles in the publications:

1. Borodina E.N. Features of the rest time of persons working on a rotational basis // legislation. 2019. №3. 0, 87 p.p.
2. Borodina E.N. Guarantees and compensations for workers engaged in labor activities on the road, in transit, in field conditions // Journal of Foreign Legislation and Comparative Law. 2019. №2. 0.6 p.p.

3. Borodina E.N. Legal regulation of home-based and remote work in the Russian Federation // Bulletin of the Voronezh State University. Series: Right. 2018. No.4 (35). 1,05 p.p.
4. Borodina E.N. Concept and legislation on home-based work // Education and Law. 2018. №4. 0.6 p.p.;
5. Borodina E.N. Concept and legislation on distance work // Education and Law. 2018. №5. 0, 76 p.p.
6. Borodina E.N. The concept of the shift method of organization of work and restrictions for work on a rotational basis // "Black Holes" in the Russian legislation. 2014. №4. 0.75 p.p.

Works published in other publications:

1. Borodina E.N. Features of the regime of working time and rest time for the people working on the road, traveling and working in the field. // Materials of the International Scientific and Practical Conference "History and Scientific Forecasting of the Development of Labor Law and Social Security Law (Third Huss Readings) / under total. Ed. N.L. Lyutova, F.O. Suleymanova. - M: RG Press. 2018 .. 0, 4 p.p.