



# **SPECIFICS OF THE LEGAL REGULATION OF WORKING HOURS AND REST HOURS OF REMOTE EMPLOYEES**

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<b>Received:</b> September 4 <sup>th</sup> 2023 <b>Accepted:</b> October 4 <sup>th</sup> 2023 <b>Published:</b> November 6 <sup>th</sup> 2023	The research focuses on the concepts of "remote work", "remote worker", the introduction of remote work, the features of the procedure for interaction between a remote worker and the employer, the regulation and organization of labor of remote workers devoted to the study of aspects. The study also examines the approaches to regulating the work of teleworkers in the legislation of foreign countries, and in this regard develops important proposals and recommendations for improving the legislation of the Republic of Uzbekistan.

**Keywords:** Remote work, remote worker, introduction of remote work, regulation, organization of labor.

## **INTRODUCTION**

Today, the labor market of Uzbekistan is characterized by structural changes associated with the emergence and active distribution of new forms of employment, which are unconventional for the existing legal procedure. Their emergence is primarily associated with the actual demand of business in terms of the development of Information Communication Technologies, economic changes in social Labor, the development of an innovative economy, as well as the reduction of wages and various other costs. One of the non-traditional forms of employment that have arisen and are in increasing demand is remote labor. The issue of wide implementation of remote operation practices in the "new Uzbekistan development strategy for 2022-2026"[1], regulated by the decree of the president of the Republic of Uzbekistan No. 60 of January 28, 2022, has taken place as one of the priority tasks.

In the context of the transition to an innovative model of the development of its economy, the penetration of market principles into the activities of enterprises and organizations and the transition to the use of remote labor, on the one hand, through more rational modes of working time and leisure, reduce costs for the employer (building employment, creating working conditions for employees in) and while the specialist serves to attract personnel from different states without problems such as Space, border, employees from the second party are independent in their work, planning their own labor activity will be able to more successfully combine work and rest time, taking into account psychophysiological characteristics.

In this regard, the number of remote employees is increasing from year to year. According to the Research Institute for personality and development, in

2014, the number of remote-working Europeans grew to 30 percent and Americans to 20 percent[2]. By March 2020, remote Labor was experiencing a sharp increase. The number of remote employees increased by 42% in the United States, 40% on average in Europe, 32% in Australia, 24.9% in South Korea and 10% in Japan[3]. The United States is the leader in the number of permanent remote employees. The state had 3.9 million American employees remotely as of 2015, a figure of 4.7 million or 3.4 percent of the population as of 2021[4].

Despite the fact that the organization of work in a remote way is much more popular on a global scale, it can be seen that the attention to this method of organizing work in Uzbekistan has increased after the coronavirus pandemic. It was during the pandemic that the labor legislation of the Republic of Uzbekistan gave rise to preliminary norms aimed at the remote Organization of work and the regulation of the labor of remote employees. In particular, paragraph 18 of the decree of the president of the Republic of Uzbekistan PF-5969 of March 19, 2020 noted that during the period of the implementation of quarantine measures, employers can transfer employees to the remote work method[5]. In order to implement paragraph 18 of this decree, in the orders of the Ministry of employment and Labor Relations of the Republic of Uzbekistan dated March 28, 2020, No. 3227[6], 3228[7], the norms related to the introduction of the remote work method were legally established for the first time.

## **MATERIALS AND TECHNIQUES**

In the process of research, general scientific and special methods of scientific knowledge were used: systemic, comparative-legal, analytical, logical, legal,



etc. This made it possible to provide a certain degree of reliability and validity.

## RESEARCH RESULTS

Today, due to the development and popularization of Information Technology, the need arose to ensure the correct legal regulation of the labor of remote workers, a new form of Labor Relations. In the new edition of the Labor Code of the Republic of Uzbekistan, a chapter on the concept of remote labor, a new form of organization, is included in this chapter, the conditions that ensure the legality of remote Labor Relations, the peculiarities of concluding and terminating an employment contract with remote workers, guarantees for the protection of the rights of such workers, in particular[8].

When it comes to regulating the labor of remote employees, special attention should be paid to the Working Time regime of the remote employee, its features and forms, since the working time is directly related to the performance of the employee's own labor duties. The time when an employee must perform his labor duties in accordance with the order or schedule of work or the terms of the employment contract is the working time. The correct Organization of the working time and rest time of a remote employee serves to increase the efficiency and productivity of work, and at the same time plays a large role in both the employee and the employer to increase the satisfaction and sense of interest in the result. The transition to the use of remote labor in particular serves, on the one hand, to reduce costs for the employer through more rational modes of working time and rest time (such as building employment, creating working conditions for employees in a building, paying various fees and taxes) and to be able to attract specialist personnel from different states without problems such as space, , they will be able to more successfully combine work and rest, taking into account psychophysiological characteristics[9]. From this point of view, the legal regulation of the working time and rest time of a remote employee indicates the relevance of the study.

## ANALYSIS OF RESEARCH RESULTS

Regarding working hours in relation to remote workers, one can talk about a certain labor standard, that is, the duration of the employee's work in calendar periods established by law. The mechanism for setting the Working Time norm for certain calendar periods is the Working Time Mode. In the New Edition, article 461 of the Labor Code of the Republic of Uzbekistan states that when setting a production assignment for remote employees, the employer must take into account the norms of the timing of the execution of certain types of

work, from which the total duration of work in order to complete the entire set of work for a month should not exceed the normal or In this case, it is stated that the employer must comply with the time norm based on the nature of the work that he is carrying out when loading a certain task and tasks to the employee working remotely.

In the third part of Article 461 of the Labor Code of the Republic of Uzbekistan in the new edition, it is indicated that the remote employee independently determines the duration of his working time, the size of the production assignment and the schedule of work and the order of work on the basis of other conditions established in the employment contract. It is the presence of the possibility of independently setting the working time that should be specified in the employment contract that is a characteristic feature of the working time of remote workers. For this reason, the employer's working hours, that is, the working hours specified in the internal order rule of the enterprise organization, have no effect on the setting of working hours for those who work remotely. It is also important that the employee freely chooses the type of working time (daytime, nighttime work, etc.) on his own, based on the possibility of independently setting his own working time by a remote worker.

N.L.Lyutov noted that the working time of a remote worker is different from the general rules in force for this employer, therefore, the working time should be indicated in the employment contract as one of its mandatory conditions[9].

According to the second part of Article 461 of the draft Labor Code of the Republic of Uzbekistan in the new edition, the remote employee must be in contact (directly cooperate) with the employer, the recorded time is also the working time, and the period of online contact of this employee can be determined in the employment contract itself. If the employer does not have the need to communicate online with a remote worker, being online is not the exact time required, but a different mode of working time in a general way, such as a working week with a circular chart on weekends, or other similar modes can be established and thus the employee can be controlled.

It can be agreed between the remote employee and the employer to perform their duties in a mixed-order mode, that is, by remotely working certain days of the week or certain hours of the working day in a stationary workplace directly under the control of the employer, a certain part of the rest in a place convenient for him. According to the second part of Article 461, the duration of the performance of tasks by an employee working in such a mixed-mode mode, both at the stationary workplace and remotely over the internet, is



included in the working time and can be established in the employment contract.

O.A. According to Vorobyova, a five-day (40-hour) work week with the usual two or one day off (Saturday and Sunday) can be established in the contract if the employer needs to participate in the production process in the online state at the same time as those who work in remote workplaces, and the employee agrees to this. If by agreement of the parties (taking into account the opinion and consent of the employee) the working time of the remote employee is established, then failure to comply with this condition of the employment contract becomes the basis for bringing the employee to disciplinary responsibility[10]. When setting a specific mode of working time for a remote worker, the employer has the opportunity to discuss business issues with the employee at what time, to find out if it can be involved in a video conference.

N.V. Yazikov notes that the following typical types of working time accounting for employees are distinguished: daily, shift, weekly and generalized. Based on the peculiarities of remote work and the peculiarities of setting the Working Time Mode, a generalized accounting of working time is the most effective. Its peculiarity is that work schedules (shifts) for the employee himself can determine the duration of work time more than the weekly norm on some days (weeks) when calculating, and less on others[11]. Of course, it is worth paying attention to the fact that the daily duration of working hours does not exceed an average of 12 hours.

The employment contract of a remote employee may provide for an irregular working day. N.V. As zakalyuzhnaya noted, "this does not mean at all that the remote worker is obliged to work systematically, in addition to the time of work set for him."

It should also be noted that the employment contract may also indicate to the employee that certain parts of the internal labor regulations do not contradict the essence of the employment contract concluded with him. We explain this as follows. On one side: in accordance with Article 176 of the Labor Code of the Republic of Uzbekistan, the employee must comply with the internal labor regulations of the organization. on the other hand, it has the right to independently distribute working hours, as well as rest time. It follows from this that the parts that the employee can determine by himself are regulated by the employment contract. In all other general procedures, internal procedures require compliance with the rules.

In turn, there are some difficulties associated with the start and end of the working day of the remote employee, control the breaks on the working day, and, accordingly, the inclusion of information about the

Worked time in the signboard. In this case, it can be said that as methods of monitoring the remote employee, it is possible to be in an online position on the employer's electronic website, to respond to the employer's e-mail messages or phone calls in a mandatory and timely manner. The employer in any case is entitled and obligated to control the labor and recreation of the employee, the reason is that control is one of the differences between Labor and civil - legal relations.

According to the project, if the remote employee independently determined the Working Time regime based on his need, desire and opportunity, then the monthly salary for this employee is paid in a uniform amount i.e. the same amount as the salary that an employee working in a stationary workplace receives, and the conditions for non-working work, work on weekends and non-working holidays, as well as.

However, in accordance with the established procedure, it is possible in some cases to allow the cooperation of the employee with the employer during the rest period of the remote employee and the involvement of the employee in work on holidays and non-working holidays. This situation is formalized by the order of the employer, and the remote employee is paid an additional amount of money in accordance with the established procedure for his involvement in work during the rest period and non-working holidays, at night, as well as during the off-peak hours recorded for the remote employee.

There is some misunderstanding and uncertainty in the fact that the project is paid for work beyond the given procedure. According to him, if the employee independently sets the Working Time regime, the conditions for non-working work in relation to him, work on weekends and non-working holidays, remuneration for work at night are not implemented. But the rule that if the employer attracts, additional money will be paid is also included. According to observations, overtime usually has to work due to the initiative of the employer and the large amount of loading. From this point of view, it is necessary to clearly indicate the circumstances in which an additional fee will be paid to employees and will not be issued.

Also, in what cases it is necessary to clearly determine the circumstances in which the employer can apply at the time when the employee is out of working hours. According to the labor legislation of the Russian Federation, the interaction of the employer with the employee during the rest period without prior written consent is allowed in the following cases:

- 1) Disaster, Prevention of a production accident or elimination of consequences;
- 2) prevent accidents, loss or damage to



the employer's property, state or municipal property;

3) to carry out non-deferred work related to emergencies or the introduction of martial law, which endangers the life or normal living conditions of the entire population or part of it, such as fire, flooding, famine, earthquakes, epidemics and others[12].

In other cases, the interaction of the employer with the employee during the rest period is allowed with his written consent. When concluding an employment contract, the employee must familiarize himself with the procedure for interaction between the employer and the employee during the rest period established by the employer[13].

According to the draft Labor Code of the Republic of Uzbekistan in the new edition, the remote employee has the right to use the paid annual basic vacation and various other holidays.

If a remote employee does not have the right to go on an annual Labor vacation with a longer duration in accordance with labor legislation, other legal acts on labor or an employment contract, the duration of his annual Labor vacation cannot be less than twenty-one calendar days[14].

The procedure for issuing annual Labor leave and other types of leave to a remote employee must be established in the employment contract on remote work.

## CONCLUSION

In conclusion, remote workers represent a fundamentally new category of workers in labor relations. This is due to the use of information and communication technologies, as well as the presence of a number of features with individual capabilities that other categories of employees do not have. However, these additional opportunities present certain difficulties in the field of their application in practice and regulation by legislation. In this regard, it is necessary to establish specific types of working hours in which remote workers can work, to take into account working hours and improve the monitoring system.

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