Employment Law Briefing: Special Edition

Expansion of the Digital Work Card Across New Sectors and Clarifications on its Implementation

A. **Introduction**
B. **Pilot Implementation of the Digital Work Card to Food Service and Tourism Sectors**
C. **Recap of the Main Provisions of the Circular No. 37271/21.06.2024 of the Ministry of Labour and Social Affairs Regarding the Implementation of the Digital Work Card**

A. Introduction

1. The Digital Work Card system, the purpose of which is to measure the working hours of employees who work physically on their employers' premises, has not yet been fully implemented across all business sectors.
2. The below table sets out the companies which are subject to the Digital Work Card system based on their main Business Activity Code (***ΚΑΔ***):

BUSINESS SECTOR	BUSINESS ACTIVITY CODE (***ΚΑΔ***)
Banks	N/A
Supermarkets with more than 250 employees	4711
Security	801 & 802
Private Insurance	651
Certain public enterprises and organizations (eg Hellenic Railways Organization SA/ERGA OSE, Public Transportation SA etc)	N/A

Industrial sector	10–33 (except for 19, 3011, 3012 and HELLENIC DEFENSE SYSTEMS SA)
Retail	47

B. Pilot Implementation of the Digital Work Card to Food Service and Tourism Sectors

1. As of 11 September 2024, the activation of the digital work card is mandatory for companies whose main business activities are in the food service sector[1] and tourism sector[2] as per the Ministerial Decision No. 44485/2024 issued by the Ministry of Labour and Social Affairs on the same date.
2. Administrative sanctions will apply for those who are not in compliance with the implementation of the Digital Work Card system on 1 March 2025, which means that companies affected have sufficient time to adapt and ensure compliance.
3. Under the new Ministerial Decision, the following clarifications are provided on the implementation of the Digital Work Card (slightly amending Circular No. 37271/21.06.2024 of the Ministry of Labour and Social Affairs):
   a. The Digital Work Card system applies in full to companies with multiple business activities, even if some of those activities have not yet been included in the Digital Work Card system, as long as the main Business Activity Code has. The following exceptions apply:
      i. Where the main Business Activity Code[3] of a company has not been integrated to the Digital Work Card system, even if the company has multiple business activities, some of which have been integrated into the Digital Work Card system, or branches which have been integrated.
      ii. Where the main Business Activity Code of a company is subject to the obligation but it has zero economic activity and the secondary Business Activity Code which generates financial activity is not included in the Digital Work Card system.
   b. An exemption applies in the case of branches[4], when they belong to sectors of economic activity which have not yet been included in the Digital Work Card system but will be included at a later stage.

[1] Operating under the following Business Activity Codes: 56.1, 56.10, 56.10.1, 56.10.11, 56.10.11.01 - 56.10.11.06, 56.10.11.08 - 56.10.11.13, 56.10.13, 56.10.13.01 - 56.10.13.04, 56.10.19, 56.10.19.01 - 56.10.19.08, 56.10.19.10 - 56.10.19.15, 56.2, 56.21, 56.21.1, 56.21.11, 56.21.11.01, 56.21.19, 56.21.19.01, 56.29, 56.29.1, 56.29.11, 56.29.11.01 - 56.29.11.03, 56.29.19, 56.29.2, 56.29.20, 56.29.20.01 - 56.29.20.05, 56.3, 56.30, 56.30.1, 56.30.10, 56.30.10.01 - 56.30.10.14.

[2] Operating under the following Business Activity Codes: 55.1, 55.10, 55.10.1, 55.10.10, 55.10.10.01 - 55.10.10.04, 55.2, 55.20, 55.20.1, 55.20.11, 55.20.11.01, 55.20.11.03 - 55.20.11.07, 55.20.12, 55.20.19, 55.20.19.01, 55.3, 55.30, 55.30.1, 55.30.11, 55.30.12, 55.30.12.01, 55.9, 55.90, 55.90.1, 55.90.11, 55.90.12, 55.90.14, 55.90.14.01, 55.90.14.02, 55.90.19, 55.90.19.01.

[3] As registered with TAXIS (the Hellenic Integrated Tax Information System).

[4] Even if the main Business Activity Code of the employer company is subject to the Digital Work Card system.

C. Recap of the Main Provisions of Circular No. 37271/21.06.2024 of the Ministry of Labour and Social Affairs Regarding the Implementation of the Digital Work Card

1. On 21 June 2024, the Ministry of Labour and Social Affairs issued Circular No. 37271/21.06.2024 providing clarifications on the implementation of the Digital Work Card.

2. Key points of the Circular:

a. Exceptionally, discrepancies between declared working hours and the actual 'clicks' of Digital Work Cards (without any modification of the working schedule) are acceptable when justified by the method of work organization and the nature of the work.

b. Discrepancies indicating overtime work are subject to inspection by the Labor Inspectorate.

c. Exemptions to 'use /clicking-in' of Digital Work Cards apply to:

i. employees working from home, for the days and time they are working remotely;

ii. individuals without a fixed workplace[5]; and

iii. managerial employees.

d. Companies implementing the Digital Work Card system can enter into an agreement with employees to implement a flexible start and end work schedule (0-120 minutes counting from the declared employment commencement time onwards).

e. Up to three missing 'click-ins' per month (per employee) are acceptable.

f. Exceptions can be made for omissions or delays in the submission of information regarding the 'click-ins' for limited, technical reasons.

g. Repeated failure to submit start and end time declarations for employees' actual working time to ERGANI II constitutes a reason for inspection by the Labour Inspectorate.

h. Special clarifications are provided for industrial sector employees in relation to their presence in the workplace before the start and after the end of their working hours, and for employees of security companies.

i. The obligation of leased employees, including employees of temporary employment agencies, (*ΕΠΑ*), to activate and use a Digital Work Card, depends on the inclusion of the employer companies who are their indirect employers on the Digital Work Card system and regardless of whether their direct employer is subject to the measure.

j. Employees through contractors are obliged to activate and use a Digital Work Card only when the contractor's main Business Activity Code is subject to the Digital Work Card system, and the work is performed on the contractor's premises (by the contractor or third parties they hire) or in a place the contractors have leased or sub-leased.

[5] Employees without a permanent place of work (that is variable within the same working day) such as medical sales representatives, sales inspectors, drivers, technicians, travelling salesmen etc.) are treated in the same way as the employees that working remotely for the days that are provide their work out of their normal place of work. In cases where these employees have a permanent place of employment out of their employer's company premises the employees are obliged to use digital work cards.



KEY CONTACTS

Maria Kloni
Counsel
mkloni@bernitsaslaw.com



Niki Nisotaki
Associate
nnisotaki@bernitsaslaw.com

This Briefing is intended to provide general information and is not meant to constitute a comprehensive analysis of the matters set out herein or to be relied upon as legal advice. It is not meant to create a lawyer-client relationship. Legal and other professional advice should be sought before applying any of the information in this Briefing to a specific situation.
Bernitsas Law Firm is a partnership of attorneys regulated by Presidential Decree 81/2005 and Law 4194/2013, as currently in force, with its registered address at 5 Lykavittou Street, Athens 106 72, Greece. If you no longer wish to receive Briefings from us, please click here to Unsubscribe.