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Articles for Lexology

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TOPIC: **Digital Work Card: Enhancing Transparency and Efficiency in the Employment Landscape**

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What is the Digital Work Card?

The Digital Work Card, a focal point in the employment sector recently, signifies a major step into a new digital era. Fully interoperable with the ERGANI II Information System, the Digital Work Card is an innovative tool that enables the precise and real-time recording of working hours, including start and end times, overtime, breaks, and all types of employee leaves. It also supports systems for managing working time arrangements. This transition from traditional methods of recording work-related information to a digital format represents a fundamental advancement in employment data management, fostering enhanced organization, efficiency, and transparency in the workplace.

In practical terms, employees use the Digital Work Card to record their work hours upon arrival and departure. The card is available either as a physical version, like those already used by some businesses for time-tracking, or as a digital application/mobile app. The application generates a QR code that is scanned by the business's digital system, ensuring seamless and accurate timekeeping.

Benefits for Employees, Employers and Supervisory Authorities from the Implementation of the Digital Work Card

The Digital Work Card ensures accuracy and transparency, providing significant benefits to all parties involved, including employees, employers, and supervisory authorities. More precisely:

- For employees: This tool empowers employees by providing real-time access to their work-related data, enhancing their ability to manage time effectively. It protects their rights by ensuring accurate recording of hours worked, safeguarding against unpaid overtime and violations of legal work limits.
- For Employers: Employers gain comprehensive insights into workforce management, enabling improved decision-making and optimal resource allocation. By modernizing traditional processes for tracking working hours, leaves, absences and employment status, the Digital Work Card reduces errors, minimizes administrative workload, and promotes a streamlined workflow.
- For Supervisory Authorities: The Digital Work Card serves as an effective tool for enforcing labor laws. It ensures transparency by allowing regulatory bodies to monitor compliance with legal work limits and protect the labor market from infringements.

Legislative Framework and Progressive Implementation of the Digital Work Card

Article 74 of Law 4808/2021, also known as the Labor Protection Law, along with Ministerial Decision No. 49758/26-05-22, as amended and currently in force, established a legal framework for the digital organization of working time and introduced the Digital Work Card in Greece.

The legislative developments regarding the Digital Work Card have been numerous and rapid, reflecting the dynamic progression of this initiative. A series of Ministerial Decisions issued by the Minister of Labor and Social Affairs have gradually expanded the application of the Digital Work Card, setting the legal and procedural framework for its implementation across various sectors, based on the Activity Code Number of employers/businesses. Additionally, interpretative circulars have been issued to provide clarifications on critical issues related to the Digital Work Card System, ensuring consistency and compliance. Complementarily, detailed implementation guides have been issued to support businesses and employees in navigating the transition to the Digital Work Card System effectively. This comprehensive and evolving regulatory framework underscores the significance of the Digital Work Card in modernizing labor practices and fostering transparency in employment relationships.

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As previously stated, the implementation of the Digital Work Card System is being progressively expanded across sectors of economic activity, based on the Activity Code Numbers of businesses. For instance, this System has already been applied to industries such as banking, supermarkets with large workforces, private security and insurance services, as well as some public transportation organizations. Recent expansions have also included industrial enterprises, retail businesses, and sectors within tourism and catering. The overarching objective is to progressively integrate all employers/businesses into the Digital Work Card System, ensuring comprehensive coverage and fostering a unified framework for monitoring and organizing working time.

Key Insights into the Digital Work Card System

1. Primary and Secondary Activity Codes and Integration into the Digital Work Card System

According to Ministerial Decision No. 44485/11.9.2024 - contrary to the provisions of Circular No. 37271/21.6.2024 of the Ministry of Labor - all employers/businesses included in the Digital Work Card System are required to implement it for all their employees if the primary Activity Code of the business, as registered in the TAXIS System, falls under the scope of the Digital Work Card, even when multiple activities are conducted on the same premises, some of which are not yet included in the Digital Work Card System.

An exemption from the application of the Digital Work Card System applies to the entire business if the primary Activity Code of the employer/business in TAXIS System does not belong to the sectors included in the Digital Work Card System, even if multiple activities are conducted on the same premises, some of which are included in the System, or if there are branches with Activity Codes that are included in the System.

Another exemption applies to the entire business if the employer/business is included in the Digital Work Card System based on its primary Activity Code in TAXIS System, but this code does not generate economic activity (i.e., the activity is dormant), and the secondary Activity Code, which represents the main economic activity of the business, is not included in the System.

Finally, an exemption applies to branches when the primary Activity Code of the employer/business in TAXIS System is included in the Digital Work Card System, but these branches operate in sectors of economic activity that have not yet been incorporated into the System.

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2. Compliance with Work Hours and Digital Card Recordings

Once a company is integrated into the Digital Work Card System, it must implement it for all employees working physically at the company's premises, regardless of their number. The digital card records the first entry and last exit from the workplace and the actual working hours are compared with the pre-declared work schedule in the ERGANI System.

Discrepancies between the pre-declared work schedule and the digital card timestamps are generally acceptable when they are due to the nature of the work or the work organization. For example, if an employee works in a customer-facing role and records the card entry later, it is acceptable as long as the card is marked at the entry and exit. However, discrepancies that result in exceeding the pre-declared working hours are subject to inspection by the Labor Inspectorate.

Each employee must have an even number of card sign-ins per day:

- Zero sign-ins if working remotely or absent for justified reasons.
- Two sign-ins if working continuously at the company's premises.
- Four sign-ins for split shifts, with the card marked at both the beginning and end of each shift.

Employers are responsible for ensuring proper use of the system and adherence to the declared working hours. Employees must mark their cards accurately, and employers cannot fill in missing entries on their behalf.

For employees working at multiple company locations in a day, they must register their entry and exit at each location.

3. Flexible Work Hours and Digital Card Recording

Employers/businesses subject to the Digital Work Card System may, through an agreement between employer and employee, implement flexible arrival times up to 120 minutes. The flexible arrival window begins from the declared start time in the digital work schedule. For example, if the declared work hours are 09:00-17:00 with a 30-minute flexible arrival agreement, the employee must arrive between 09:00 and 09:30 and record their Digital Work Card within that window. In such a case, leaving after completing the 8-hour workday, i.e., between 17:00 and 17:30, is considered justified, provided it is verified by the digital card sign-in and the agreed-upon flexible arrival terms.

However, a flexible arrival agreement does not permit employees to record their Digital Work Card before the declared start time. For instance, arriving and recording the card at 08:30 instead of 09:00 would not be acceptable unless the declared schedule has been officially modified. In cases where such early card recordings occur without a prior adjustment of the declared work schedule - whether through a Fixed

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or a Variable/Amended schedule declaration before the employee begins work (assuming the business has adopted the Retrospective System, as set out below) - this is considered a discrepancy between the declared schedule and the records of the Digital Work Card. If such a discrepancy is identified during an inspection by the Labor Inspectorate, sanctions may be imposed.

Nevertheless, minor deviations, such as those of around 10-minute range, are generally considered reasonable and fall within acceptable limits. These minor deviations are generally not penalized, as they are acknowledged as usual variations in day-to-day workplace activities.

4. Retrospective System for Time Tracking and Overtime

Law 5053/2023 introduces the option for employers/businesses to use a retrospective system for recording changes in working hours, time organization, and overtime, rather than pre-recording them. If this option is chosen, employers/businesses must declare, by the last day of the current month, their intent to use this system for the next calendar month. In this case, they must record changes within the same month. Changes must be entered by the end of the following month. Employers/businesses cannot apply both the retrospective and pre-announced systems within the same month. Employers may switch back to the pre-announced system by declaring the change before the start of the desired calendar month.

5. Cases of justified non-recording of the Digital Work Card

a) Remote Employees

The Digital Work Card System currently applies only to employees physically present at the workplace. Therefore, employees working remotely are not required to mark their Digital Work Card on days they work under this arrangement. If a company has submitted a time organization statement indicating remote work for certain periods or days, the lack of digital card recording during those times is considered justified and will not result in penalties.

In cases where employees work part of the day on-site and the rest remotely, the System allows for multiple entries on the same day. If, for example, an employee starts their shift remotely and finishes it on-site, they must mark their Digital Work Card when entering and exiting the workplace.

b) Special Categories of Employees with Non-Static Work Locations

Certain categories of employees, due to the nature of their work (e.g., medical representatives, sales inspectors, traveling salespeople, technicians, drivers,

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employees visiting clients, advertisers, etc.), do not have a fixed work location and are required to move frequently from one location to another during the day.

Given the difficulty in marking the Digital Work Card at every location these employees might be during their tasks, they should be treated similarly to teleworking employees. Therefore, employees in these categories are not required to mark the Digital Work Card on days when they work outside the fixed workplace and move between multiple locations throughout the day. In such cases, the declared work schedule in the ERGANI System will be considered the working hours for that day and failure to mark the card will be considered justified without penalties. However, if these employees work outside their fixed work location (e.g., at client premises), they must carry a copy of their employment contract and a personnel list showing their employer, job title and work location to justify the absence of marking the Digital Work Card. On the other hand, if these employees work at a fixed location (e.g., in a leased space like a shop-in-a-shop of another business), they are still required to mark the Digital Work Card at that location. Failure to do so will result in penalties.

c) Employees in Managerial Positions

Employees in managerial positions, as defined by Ministerial Decision 90972/15-11-2021 (as amended), are registered in the digital work schedule process. For these employees, a Work Relationship Change Declaration and the Digital Organization of Work must be submitted in ERGANI System, but they are exempt from marking the Digital Work Card, if their employment contract and registration in the ERGANI System confirm they fall under this category.

Conclusion - A Vision for the Future

The Digital Work Card contributes undoubtedly to a more dynamic and adaptable labor market, paving the way for a more organized, efficient, and digitally-driven work environment. By streamlining processes, enhancing transparency, and facilitating real-time monitoring of work hours, it ensures that both employers and employees are aligned with legal requirements.

In the long term, the overarching objective of the Digital Work Card System is the establishment of a secure and highly competitive labor environment, characterized by transparent regulatory oversight, the elimination of redundant bureaucratic procedures and the promotion of economic growth through job creation. More importantly, this System ensures the safeguarding of employees' rights while maintaining the integrity of the labor market and entrepreneurship, protecting them from the distortions of unfair competition. The Digital Work Card is thus not only a tool for improving workplace efficiency but also a key pillar in fostering a sustainable and fair labor market for the future; a future where the rights of employees will not be optative but a reality.

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