

New definitions of employee 'undeclared work' and 'undeclared earnings' introduced

February 21 2018 | Contributed by [George Z Georgiou & Associates LLC](#)

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The Social Insurance (Amendment) Law (52(I)/2017) was amended in June 2017 to introduce definitions of 'undeclared work' and 'undeclared earnings' to the Cypriot legal system.

'Undeclared work' is defined as the insurable employment of an employee or a self-employed person which has not been declared to the Ministry of Labour, Welfare and Social Insurances, while 'undeclared earnings' are defined as the insurable earnings for which an employer has not submitted a statement of earnings and contributions within the deadline for the payment of such contributions. It also includes false declarations of insurable earnings in the concerned statement.

Administrative fines have been introduced alongside the criminal penalties that were already in place. In particular, an administrative fine of €500 can be imposed on employers for each violation. The said amount can be increased to €500 for each calendar month or part of a calendar month before which a violation took place. However, the total amount of an administrative fine imposed on an employer who employ up to 10 employees cannot exceed €10,000 for each confirmed violation.

In practice, on confirmation of a violation and before the imposition of an administrative fine, the labour inspector will meet the employer and deliver a notice of confirmation of violation, including details of the specific violation and the intention to impose an administrative fine. In such case, the right to be heard is provided to the employer within five days from the notice date.

If the administrative fine is paid within 30 days of the fine's imposition, it will be reduced by 30%. In the event of an overdue payment, the fine will be increased by €50 for each day of delay.

As regards the employee against whom the violation was conducted, it is presumed that he or she was employed for the previous six months by the employer and received earnings equal to one-and-a-half times his or her basic insurable earnings when the violation took place, unless the employer can prove that the employment period was shorter or that the amount of earnings was less than the above threshold.

There is an administrative fine of €200 for undeclared work by a self-employed person, which increases to €200 for each calendar month or part of a calendar month during which the violation took place.

Anyone dissatisfied by a decision issued against him or her has the right to submit an objection to the Objections Committee within 15 days from notification of a decision. The committee consists of the general director of the ministry of labour, welfare and social insurances, who acts as committee president, and two ministry officers appointed by the minister as committee members.

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