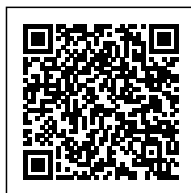


ARTISTS' EMPLOYMENT - A NEW LEGAL FRAMEWORK IN PORTUGAL

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Portuguese Law no. 4/2008, dated 7th February, approved a legal framework for employment contracts for performing artists, namely actors, background performers, dancers, singers, musicians, choreographers, scenographers, directors and bullfighters.

The new Law introduces several amendments to the Labour Code, adjusting the definition of performing artists to an activity which is generally carried out by a subordinate employee. We would highlight the following updates:

- a) *Form of employment contract* – the employment contract of a performing artist must be in writing. Oral agreements will be void, although work rendered under such agreements shall be taken into consideration to a certain extent;
- b) *Entry on a specific register in order to obtain a professional listing and a presumption that the artistic activity is done in a regular way* – this registration is valid for a period of five years and can be extended upon the request of the person concerned. This mechanism is, however dependent on a

regulation being passed by the Portuguese Ministry of Culture;

c) *Classification of foreigners' work* – foreigners performing artistic activities are considered to be "highly qualified" for the purposes of entry, stay, departure and deportation from the Portuguese territory. This will be relevant to temporary residence visas and extensions of permits of stay and residence;

La nueva ley portuguesa 4/2008 de 7 de febrero ha introducido un nuevo marco jurídico para los contratos laborales de los artistas intérpretes incluidos actores, comparsas, coreógrafos, escenógrafos, bailarines, cantantes, músicos, directores y toreros.

Esta nueva ley presenta varias enmiendas del código laboral y modifica la definición de un artista intérprete para considerarla actividad prestada por un empleo subordinado.

Los autores, Benjamín Mendes y Nuno Aureliano, socios del departamento laboral y de empleo del bufete ABBC, hacen hincapié en las áreas más novedosas que incluyen contratos formalizados por escrito, empleo de duración indefinida, clasificación del trabajo de extranjeros, horas laborales, definición de las horas nocturnas, reclasificación de las tareas del artista y posibilidad de discontinuidad en los servicios prestados.

d) *New rules for fixed-term work* – fixed term contracts can have a duration of up to eight years and, unlike normal fixed term contracts, are not automatically renewable. The rules related to the drafting of successive contracts, extension limits and the aggregation of the overall contribution are also not applicable;

e) *Possibility of discontinuance of services* – this option can be agreed from the beginning of the contract on either an indefinite or temporary basis and will result in periods of inactivity by the employee and a reduction in remuneration;

f) *Regulation of collective work agreements* – this agreement can be entered into directly with each one of the artists or indirectly through a joint representative appointed as manager of the group of workers in question. The established number of contractual bonds is equal to the number of workers belonging to the group;

g) *Working time, night work, and weekly days off* – the new Law permits alternating schedules and stipulates that night work is work carried out between 12 am and 5 am. On these terms, the period of time constituting night work is two hours shorter than the one established by the Code of Labour with obvious consequences concerning the extra remuneration given to each worker for work carried out at night. Also, it cannot be claimed that either Saturday or Sunday constitutes one of the weekly days off, which affects the supplementary work of each worker, and the payment of the extra remuneration due;

h) *Workplace and reclassification (upgrading) of the employee* – there is a clear flexibility as to the established workplace where the work activity is performed, changing in accordance with the place where rehearsals take place. The Law is still sensitive towards the characteristics of the artistic activity, admitting the possibility of the artist being appointed new tasks that are compatible with his/her qualifications without loss of remuneration. However, it provides that if there is a definite loss of the artist's aptitude to carry out the artistic activity, a commission made up of the employee, employer and another entity chosen by agreement of the parties will have to give a detailed opinion on the situation, and the employee should receive adequate vocational training suitable to his/her activity.

In short, the new Law introduces a number of new rules that the legal community must be aware of.

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