

New Regulations impacting the Retail Sector

Legal newsletter



New Regulations impacting the Retail Sector

Deloitte Legal Szarvas, Erdős and Partners Law Firm, a member of Deloitte Legal's international network, is providing its clients with a monthly newsletter on the most recent changes and newly adopted regulations in economic law and the most notable legal cases.

We would like to take this opportunity to inform our clients about the modifications introduced by Act CII of 2014 on the Prohibition of Work on Sunday in the Retail Sector (hereinafter: Act). In addition, we set forth below the practical implications of these modifications. The aim of the new legislation is to provide retail employees with adequate rest periods and to strengthen family relationships. In order to facilitate these aims the Act intends to regulate the opening hours of stores.

Retail days and opening hours

As a general rule, as of 15 March 2015, shops are not permitted to open on Sundays and public holidays. In addition to the above, shops may only remain open from 6:00 a.m. until 10:00 p.m. on the remaining, so called "retail days". The Act sets forth that retail activities may only be carried out in retail units within the scope of the above mentioned opening hours. Within the scope of the Act, a retail unit includes a building, part of a building or premises established or used for retail activities, as well as all permanent or temporary points of sale, where commercial activity is carried out. Interpretation issues have arisen pertaining to the operation of web shops. In these cases retailers sell their products online, outside of an actual retail unit. Furthermore, the act of selling and purchasing of these goods remain separate from the shipping and delivery of the goods to the customer. It is currently unclear whether web shops qualify as points of sale and thereby as retail units. Additionally, the specific elements of online shopping which might be subject to the prohibition require further clarification.

Exceptions

The Act sets forth several exceptions to the general rule. The scope of the Act does not include certain activities and business types (e.g. restaurants, markets and petrol stations). The opening hours and days of these shops remain unchanged. Mandatory closing on Sundays does not include services provided to the retail sector (i.e. the operation of shopping centres, markets, fairs and the provision of other services

facilitating trading activities such as storage and warehousing of products sold in such places).

The Act allows shops to be open on the Sundays during Advent and on one additional (freely selected) Sunday of the year. However, the vendor is obliged to notify the competent public notary about its intention to remain open.

Specific opening hours are set forth for retail units dealing with the sale of specific product groups (e.g. newspapers, flowers, exclusively dairy products and pastries). Furthermore, the Act allows retail units with a vending space of less than 200 square meters to be open on Sundays, provided that the commercial activity is carried out personally by the vendor, or by a natural person holding at least 20% of the shares of the business association operating the retail unit or by a close relative of such a person. The vendor working in a retail unit which is open during the compulsory closing hours must be able to verify the specialised profile of the retail unit based on the sales revenue data or the ownership or family relationship that entitles the vendor to personally carry out the commercial activity.

In addition to the above, the government is authorized to issue regulations different from the rules currently set forth by the Act. Such regulations may occur with respect to the specific features, shopping habits and employee head counts of a given city. As such, opening on Sundays and the duration of the retail day may be extended in the case of shops which are located close to tourist attractions.

Supervision and sanctioning

The Consumer Protection authority serves to supervise compliance with the Act. The authority may examine whether the retail unit is entitled to be open during the statutory closing hours. In addition, it may review the compliance of the respective retail unit with the regulations concerning the business profile or personal contribution of the vendor or his close relative to the commercial activity. The Consumer Protection authority may levy penalties if the Act is violated. Such penalties may include closing the shop. If the violation is repeated, closure may be required for up to one year.

Practical issues

Prior to 15 March 2015, companies are advised to consider the potential modifications required in their operation in order to comply with the new regulation. For instance, the rescheduling of employee working hours in order to comply with the new six day working week. Additionally, the introduction of a 6:00 a.m. to 10:00 p.m. work schedule may be required in the case of retail units that currently operate continuously. It is important to note that employers operating outside of the retail sector may continue to work on Sundays and public holidays in compliance with the relevant provisions of the Labour Code. Employers engaged in the retail sector might also continue to schedule their employees to work on these days without performing commercial activity or opening the retail unit.

Businesses that are not impacted by the Sunday opening prohibition may also be subject to certain modifications. The business conditions upon which leases or supply contracts are based may be modified. These changes may occur in the costs applied in shopping centres where the costs are shared between the lessees of the shopping centre (e.g. operation cost of elevators and escalators). As a result of the Act, these costs may have to be borne to a greater extent by retail units that are permitted to remain open on Sundays.

Deloitte Legal

Deloitte Legal is a unique network of 125 offices in 55 countries with more than 1,100 experienced lawyers providing a wide range of legal services. In 13 countries across Central Europe, local and international clients are served by a highly qualified team of more than 150 lawyers possessing a wealth of industry experience in, amongst others, the FSI sector and the manufacturing industry. The members of this network of law firms work together with Deloitte's other professionals, leveraging their experience and expertise in representing their clients internationally and in solving complex issues.

Deloitte Legal Szarvas, Erdős and Partners Law Firm, Deloitte Hungary's correspondent law firm, is the Hungarian member of the global Deloitte Legal network. To learn more, please visit www.deloittelegalce.com.

Contact us

If you have any questions or comments concerning the above, please contact our experts below:



Dr. Gábor Erdős
Attorney
Partner Associate
+36-1-428- 6813
gerdos@deloitteCE.com



Dr. Júlia Szarvas
Attorney
Partner Associate
+36-1-428-6465
jszarvas@deloitteCE.com



Dr. Péter Göndöcz
Attorney
Partner Associate
+36-1-428-6974
pgondocz@deloitteCE.com



Dr. Anna Katalin Papp
Attorney
Managing Associate
+36-1-428-6736
apapp@deloitteCE.com



Dr. Gábor Baranyi
Salaried Attorney
Managing Associate
+36-1-428-6846
gbaranyi@deloittece.com



Dr. Anita Baracsi
Attorney
Senior Associate
+36-1-428-6844
racsi@deloittece.com

These materials and the information contained herein are provided by the Deloitte Hungary and are intended to provide general information on a particular subject or subjects and are not an exhaustive treatment of such subject(s).

Accordingly, the information in these materials is not intended to constitute accounting, tax, legal, investment, consulting, or other professional advice or services. The information is not intended to be relied upon as the sole basis for any decision which may affect you or your business. Before making any decision or taking any action that might affect your personal finances or business, you should consult a qualified professional adviser.

These materials and the information contained therein are provided as is, and Deloitte Hungary makes no express or implied representations or warranties regarding these materials or the information contained therein. Without limiting the foregoing, Deloitte Hungary does not warrant that the materials or information contained therein will be error-free or will meet any particular criteria of performance or quality. Deloitte Hungary expressly disclaims all implied warranties, including, without limitation, warranties of merchantability, title, fitness for a particular purpose, non-infringement, compatibility, security, and accuracy.

Your use of these materials and information contained therein is at your own risk, and you assume full responsibility and risk of loss resulting from the use thereof. Deloitte Hungary will not be liable for any special, indirect, incidental, consequential, or punitive damages or any other damages whatsoever, whether in an action of contract, statute, tort (including, without limitation, negligence), or otherwise, relating to the use of these materials or the information contained therein.

If any of the foregoing is not fully enforceable for any reason, the remainder shall nonetheless continue to apply.

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee and its network of member firms, each of which is a legally separate and independent entity. Please see www.deloitte.hu/about for a detailed description of the legal structure of Deloitte Touche Tohmatsu Limited and its member firms.

Deloitte provides audit, tax, consulting, financial advisory and legal services (legal services to clients are provided by cooperating law firm Deloitte Legal Szarvas, Erdős and Partners Law Firm) to public and private clients spanning multiple industries. With a globally connected network of member firms in more than 150 countries, Deloitte brings world-class capabilities and high-quality service to clients, delivering the insights they need to address their most complex business challenges. Deloitte's approximately 200,000 professionals are committed to becoming the standard of excellence.