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SOME ISSUES CONSIDERING THE LEGAL STATUS OF PERSONS ACTING AS MANAGERS OF LIMITED LIABILITY COMPANIES FOR VACANT POSITION

The purpose of this article is to clarify the most basic features of the legal status of persons who temporarily perform duties for vacant positions based on the current level of development of this group of public relations and to provide recommendations considering the procedure of appointing persons as acting for the vacant post of head of Limited Liability Company.

At the presentation of the articles the following conclusions are made.

It is proved that acting is possible only in relation to managing positions of employers – entities which, according to constituent documents or other statutory provisions of these entities, are assigned by their governing bodies.

It is recommended to provide in the constituent documents of LLC a position of deputy head of LLC who may temporarily act as a director during his absence at work under the terms of the temporary patronage (including cases of dismissal – up to the appointment of another person as a head on a regular basis).

It is confirmed that the maximum term of existence of a person in the status of the acting director is limited by the period of two months – with the

term, general meeting of LLC have to appoint a person (with his consent) as a head of the LLC on a regular basis or make him free of acting. In any case, after the two-month period, if the person continues to fulfill duties under the relevant post, fixed-term employment contract of acting as a director of LLC transforms into permanent one.

Unlike the temporary patronage where the duties of the head in case of his absence belong to additional duties performed on temporary conditions, acting temporarily, a person dismisses from the previous post, which is a temporary transfer.

The author proposes to provide regulations for persons returning to the previous position after temporary acting to guarantee preservation of their average salary in the amount relevant to the post they temporarily performed duties for within two weeks after returning to the previous position.

Without proper registration of LLC director's dismissal, it is recommended to complete this procedure in court – by the verification of legal significance of termination of the employment contract concluded with LLC after issuance of an appropriate order of dismissal.