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# Labour code of the Republic of Kazakhstan

Unofficial translation

Code of the Republic of Kazakhstan dated 23 November, 2015 no. 414-V

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## **GENERAL PART SECTION 1. GENERAL PROVISIONS Chapter 1. MAIN PROVISIONS**

### **Article 1. The basic definitions used in this Code**

1. The following basic definitions are used in this Code:

1) civil service - professional activity of civil servants in the performance of official authority, aimed at fulfillment of tasks and functions of state enterprises, government agencies, technical maintenance and functioning of state bodies;

2) civil servant - a person who, in the manner prescribed by the legislation of the Republic of Kazakhstan, holds a paid staff position in state enterprises and government agencies and performs official duties in order to implement their tasks and functions, maintain and ensure functioning of state bodies;

3) the minimum monthly wage - is the guaranteed minimum monthly payments to an employee of simple unskilled (least complicated) labor in performing his labor duties under normal conditions and at normal duration of working hours, established by this Code;

4) special clothing - clothing, footwear, headwear, mittens, other personal protective items, intended to protect an employee from harmful and (or) dangerous production factors;

5) heavy work - activities of an employee associated with the constant movement, relocation and carrying by hand (ten kilograms and more) of weights and requiring great physical effort (energy consumption more than 250 kcal / h);

6) shift work - work in two or three or four work shifts within 24 hours;

7) social partnership - a system of relationships between employees (representatives of employees), employers (representatives of employers), state bodies aimed at ensuring harmonization of their interests in regulation of labor relations and others directly related to labor relations;

8) general, industrial, regional agreement (hereinafter – an agreement) – a legal act in the form of a written agreement concluded between the parties to the social partnership, defining the content and obligations of the parties to establish working, employment and social security conditions for employees at the national, industrial and regional levels;

9) the condition of non-competition - the terms of the non-competition agreement that limit the employee's right to carry out actions that could damage the employer;

10) downtime – a temporary suspension of work due to economic, technological, organizational, other production or nature reasons;

11) qualification category (rank) - the level of requirements for the qualification of an employee, reflecting the complexity of the work performed;

12) mediator - an individual or legal entity, engaged by the parties to labor relations to render services to resolve labor dispute;

13) a leave - the release of an employee from work for a certain period to ensure the annual rest of the employee or social goals, with retention of his place of work (position) and the average salary in the cases established by this Code;

14) labor - is a human activity aimed at creating material, spiritual and other values necessary for life and for meeting the needs of a human being and a society;

15) labor hygiene - a set of sanitary and epidemiological measures and means for preserving the health of employees, prevention of adverse effects of the working environment and the work process;

16) labor dispute - disagreements between the employee (employees) and the employer (employers) on application of the labor legislation of the Republic of Kazakhstan, implementation or amendment of the terms of agreements, labor and (or) collective contracts, employer's acts;

17) working conditions – the terms of payment, standardization of labor, performance of work-related duties, working hours and rest time, the order of combining professions (positions), expanding service areas, performing duties of temporarily absent employee, labor safety and protection, technical, production and working conditions, as well as other working conditions agreed upon by the parties;

18) the authorized state body for labor - is the central executive body that administers and ensures inter-industrial coordination in labor relations area in accordance with the legislation of the Republic of Kazakhstan;

19) a local labor inspection body - is a structural subdivision of local executive bodies of a region, a city of the republican significance, of the capital, performing powers within the respective administrative-territorial unit in the area of labor relations in accordance with the legislation of the Republic of Kazakhstan;

20) payment for labor - is a system of relations connected with compulsory payment of remuneration to the employee for his work by the employer in accordance with this Code and other normative legal acts of the Republic of Kazakhstan, as well as agreements, labor, collective contracts and acts of the employer;

21) labor relations - the relationship between the employee and the employer arising in the exercise of rights and obligations provided for by the labor legislation of the Republic of Kazakhstan, agreements, labor, collective contracts and acts of the employer;

22) relations directly related to labor relations – the relations that are formed for organization and management of labor, employment, vocational training, retraining and advanced training of employees, social partnership, conclusion of collective agreements and contracts, participation of workers (workers' representatives) in establishing working conditions in the cases provided for by this Code, resolution of labor disputes and control over compliance with the labor legislation of the Republic of Kazakhstan;

23) labor safety - the state of protection of employees, provided by a set of measures that exclude the impact of harmful and (or) dangerous production factors on the employees in the course of work;

24) labor safety conditions - compliance of labor process and production environment with requirements of labor safety and protection in performance of labor duties by the employee;

25) monitoring of labor safety and protection - a system for monitoring the state of labor safety and protection, as well as assessing and forecasting the state of labor safety and protection;

26) standards in labor safety and protection area - ergonomic, sanitary-epidemiological, psycho-physiological and other requirements that ensure normal and safe working conditions;

27) accident related to work activity - the impact on the employee of a harmful and (or) dangerous production factor in performance of his work (job) duties or tasks of the employer, which resulted in an industrial accident, sudden deterioration of health or poisoning of the employee that led to temporary or persistent disability or death;

28) labor duties - the obligations of the employee and the employer, conditioned by the normative legal acts of the Republic of Kazakhstan, the employer's act, labor, collective contracts;

29) work experience - time in calendar calculation, spent by the employee to perform labor duties, as well as other periods included in the length of service in accordance with this Code;

30) labor discipline - proper performance by the employer and employees of the obligations established by the normative legal acts of the Republic of Kazakhstan, as well as by agreements, labor, collective contracts, acts of the employer, constituent documents;

31) work schedule - the order of regulation of relations for organization of labor of employees and the employer;

32) labor protection - a system to ensure the safety of life and health of employees in the work process, including legal, socio-economic, organizational and technical, sanitary-epidemiological, therapeutic and preventive, rehabilitation and other measures and means;

33) technical inspector for labor protection - a representative of employees exercising internal control over labor safety and protection;

34) standardization of labor - determination of necessary labor (time) input to perform work (production of a unit of output) by employees in specific organizational and technical conditions and establishment of labor standards on this basis;

35) safe working conditions - working conditions where the levels of influence of production factors on employees do not exceed the established standards;

36) employment contract - a written agreement between the employee and the employer, according to which the employee undertakes to perform certain work (labor function) in person, observe the work order, and the employer undertakes to provide the employee with work on the stipulated labor function, provide the working conditions stipulated in this Code, laws of the Republic of Kazakhstan and other normative legal acts of the Republic of Kazakhstan, collective contracts, acts of the employer, pay wages to the employee timely and in full;

37) salary - remuneration for work, depending on qualification of the employee, complexity, quantity, quality and conditions of the work performed, as well as compensation and incentive payments;

38) personal protective items – the means, designed to protect the employee from harmful and (or) dangerous production factors, including special clothing;

39) an employer - is an individual or legal entity with whom the employee is in labor relations;

40) representatives of employers – individuals and (or) legal entities, authorized, on the basis of constituent documents and (or) power of attorney, to represent the interests of the employer or a group of employers;

41) acts of the employer - orders, resolutions, instructions, rules, regulations, schedules of shifts, schedules of watches, leave schedules, issued by the employer;

42) declaring of the employer's activity - the procedure for recognizing the employer's activities that meet the requirements of the labor legislation of the Republic of Kazakhstan on the basis of the application submitted by him;

43) an employee - an individual who is in labor relations with the employer and who directly performs work under an employment contract;

44) representatives of employees - bodies of trade unions, their associations, and, in their absence, the elective representatives, elected and authorized at the general meeting (conference) of employees by a majority of the participants, with the presence of at least two-thirds of the employees (conference delegates);

45) workplace - the place of permanent or temporary location of an employee in performance of his labor duties in the course of work;

46) billing of the work - assignment of works to a certain complexity in accordance with the Unified tariff-qualification reference book of works and occupations of workers and the Qualification reference book of positions of managers, specialists and other employees, tariff and qualification characteristics of occupations of workers and standard qualification characteristics of positions of managers, specialists and other employees of organizations;

47) working hours - is the time during which the employee, in accordance with the employer's acts and the terms of the employment contract, performs labor duties, as well as other periods of time that, in accordance with this Code, other normative legal acts of the Republic of Kazakhstan, the collective contract, the employer's act, are included in the working hours;

48) record of cumulative hours worked – recording of working hours by summing it up for the record period established by the employer;

49) harmful working conditions - working conditions that are characterized by the presence of harmful production factors;

50) harmful production factor – is a production factor, the impact of which on the employee can lead to illness or disability and (or) negative impact on the health of the generation;

51) occupational disease - is a chronic or acute disease caused by impact of harmful and (or) dangerous production factors to an employee when the employee performs his / her work duties;

52) guarantees - means, methods and conditions by which the rights granted to employees in social and labor relations area are exercised;

53) safety standards - qualitative and quantitative indicators characterizing production conditions, production and labor process in terms of ensuring organizational, technical, sanitary, hygienic, biological and other norms, rules, procedures and criteria aimed at preserving the life and health of workers in their labor activity;

54) dangerous working conditions - working conditions where the impact of certain production or irremovable natural factors leads in case of non-observance of the rules of labor protection to occupational injuries, sudden deterioration of health or poisoning of the employee resulting in temporary or persistent disability, occupational disease or death;

55) dangerous production factor - a production factor, the impact of which on the employee can lead to temporary or persistent disability (occupational injury or occupational disease) or death;

56) part-time work - the employee performs another regular paid work in accordance with the terms of the employment contract in his free time;

57) a foreign employee of a state body - a foreigner involved in a state body under an employment contract;

58) holidays - days of national and state holidays of the Republic of Kazakhstan;

59) basic salary - a relatively constant part of wages, including payment at tariff rates, official salaries, piece-work rates, and permanent payments, stipulated by the labor legislation of the Republic of Kazakhstan, industrial agreement, collective and (or) employment contracts;

60) production equipment - machines, mechanisms, devices, apparatus, instruments and other technical means necessary for work, production;

61) industrial injury - damage to the health of the employee, received during performance of his labor duties, resulting in a loss of ability to work;

62) production necessity - work to prevent or eliminate a natural disaster, an accident or immediate elimination of their consequences, to prevent accidents, downtime, death or damage to property and in other exceptional cases, as well as to replace a temporarily absent employee;

63) production activity - a set of actions of employees with the use of the means of labor necessary to turn resources into finished products, including production and processing of various types of raw materials, provision of various types of services and performance of work;

64) specialized organizations for certification of production facilities - organizations that carry out activities to certify production facilities for working conditions, possessing the qualified personnel and testing laboratories accredited in accordance with the legislation of the Republic of Kazakhstan;

65) attestation of production facilities for working conditions - activities for evaluation of production facilities (workshops, plots, workplaces, as well as other separately located units of employers engaged in production activities) in order to determine the state of safety, harmfulness, complexity of the work performed on them, labor hygiene and to determine compliance of working environment conditions with labor safety and protection standards;

66) industrial sanitation - a system of sanitary-hygienic, organizational measures and technical means that prevent or reduce the impact of harmful production factors on employees;

67) production factors - technical, sanitary, hygienic, industrial and other conditions that affect the employee in accordance with legislative and other normative legal acts of the Republic of Kazakhstan;

68) gross negligence - actions of the employee, contributing to violation of the rules of labor protection and safety of their health;

69) compensation payments - cash payments related to a special mode of work and working conditions, loss of work, reimbursement of costs to employees associated with performance of their labor or other duties stipulated by the laws of the Republic of Kazakhstan, as well as payments related to vocational training, retraining and advanced training of employees or other persons who are not in labor relations (hereinafter - the trainee);

70) inter-category coefficient - the ratio between tariff rates of adjacent tariff-qualification categories;

71) tariff system - a type of wage system, in which the employees' wages are determined differentially based on tariff rates (salaries) and tariff scale;

72) tariff scale - a set of tariff categories and tariff coefficients, providing for differentiation based on the complexity of the work performed and qualifications of employees;

73) tariff rate (salary) - a fixed amount of payment for labor for performance of labor duties of a certain complexity (qualification) per unit of time;

74) tariff category - a level of complexity of work and an indicator of the qualification level necessary to perform this work;

75) disciplinary sanction - is a disciplinary measure of influence on an employee, taken by an employer for committing a disciplinary offense;

76) disciplinary offense – a violation of labor discipline by an employee, as well as improper performance of labor duties;

77) rest time - the time during which the employee is free from performing labor duties and which can be used at his discretion;

78) collective protective items - technical means intended for simultaneous protection of two or more employees from exposure to harmful and (or) dangerous production factors;

79) collective contract - a legal act in the form of a written agreement, concluded between employees in the person of their representatives and the employer, regulating social and labor relations in the organization;

80) overtime work - work performed by an employee at the initiative of the employer beyond the established working hours (in excess of the normal amount of working hours for the record period);

81) notification - a written application of an employee or employer or applications filed in another way (courier mail, postal service, facsimile communication, e-mail and other information and communication technologies);

82) business trip – sending of an employee on the order of the employer to perform work duties for a certain period outside the place of permanent work in another locality, as well as sending the employee to another locality for training, advanced training or retraining.

2. Other special concepts and terms of the labor legislation of the Republic of Kazakhstan are used in the meanings, defined in the relevant articles of this Code.

Footnote. Article 1 as amended by the Article 204 of the Labour code of the Republic of Kazakhstan dated 23.11.2015 № 414-V (shall be enforced from 01.01.2017).

## **Article 2. Labor legislation of the Republic of Kazakhstan**

1. The labor legislation of the Republic of Kazakhstan is based on the Constitution of the Republic of Kazakhstan and consists of this Code, laws of the Republic of Kazakhstan and other normative legal acts of the Republic of Kazakhstan.

2. It is prohibited to include the norms regulating labor relations, social partnership and labor protection in other laws of the Republic of Kazakhstan, except for the cases stipulated by this Code.

3. If an international agreement ratified by the Republic of Kazakhstan establishes other rules than those contained in this Code, then the rules of the international treaty are applied.



International treaties ratified by the Republic of Kazakhstan are applied directly to labor relations, except for the cases when it follows from the international treaty that a law is required for its application.

### **Article 3. Purpose and objectives of the labor legislation of the Republic of Kazakhstan**

1. The purpose of the labor legislation of the Republic of Kazakhstan is the legal regulation of labor relations and other relations directly related to labor, aimed at protecting the rights and interests of the parties to labor relations, establishing minimum guarantees of rights and freedoms in labor area.

2. The objectives of the labor legislation of the Republic of Kazakhstan are the creation of necessary legal conditions aimed at achieving a balance of interests of the parties to labor relations, social stability and public consent.

### **Article 4. Principles of labor legislation of the Republic of Kazakhstan**

The principles of labor legislation of the Republic of Kazakhstan are:

- 1) impermissibility of restriction of human and civil rights in labor area;
- 2) freedom of work;
- 3) prohibition of discrimination in labor area, forced labor and the worst forms of child labor;
- 4) ensuring the right to work conditions that meet requirements of safety and hygiene;
- 5) the priority of life and health of the employee;
- 6) ensuring the right to remuneration for work which is not lower than the minimum wage;
- 7) ensuring the right to rest;
- 8) equality of rights and opportunities for workers;
- 9) ensuring the right of employees and employers to unite to protect their rights and interests;
- 10) assistance of the state in strengthening and developing social partnership;
- 11) state regulation of labor safety and protection issues.

### **Article 5. Freedom of labor**

Everyone has the right to freely choose work or freely agree to work without any discrimination or coercion, the right to control his abilities to work, to choose a profession and occupation.

## **Article 6. Prohibition of discrimination in labor area**

1. Everyone has equal opportunities in exercising their rights and freedoms in labor area. No one may be restricted in the rights at work, except for the cases and in the manner prescribed by this Code and other laws of the Republic of Kazakhstan.

2. No one shall be subjected to any discrimination in the exercise of labor rights on grounds of origin, social, official and property status, sex, race, nationality, language, attitude to religion, beliefs, residence, age or disability, as well as associations.

3. Differences, exceptions, preferences and restrictions, which, in accordance with the laws of the Republic of Kazakhstan, are established for the relevant types of work activity or are caused by the special concern of the state about persons requiring increased social and legal protection, are not the discrimination.

4. Persons who consider that they have been subjected to discrimination in the labor area have the right to apply to the court or other instances in the manner established by the laws of the Republic of Kazakhstan.

## **Article 7. Prohibition of forced labor**

Forced labor is prohibited.

Forced labor means any work or service required from a person under the threat of any punishment, for which this person did not volunteer his services.

Forced labor is allowed only:

as a result of the court verdict that entered into force, provided that the work is carried out under the supervision and control of state bodies and that the person performing it will not be ceded or transferred to the disposal of individuals and (or) legal entities;

in an emergency or martial law.

## **Article 8. Scope of this Code**

1. This Code regulates the following relations:

- 1) labor;
- 2) directly related to labor;
- 3) social partnership;
- 4) on safety and labor protection.

2. This Code applies to employees and employers located on the territory of the Republic of Kazakhstan, including branches and (or) representative offices of foreign legal entities that have passed registration, unless otherwise provided by laws and international treaties ratified by the Republic of Kazakhstan.

3. Specifics of the legal regulation of labor of certain categories of employees are established by this Code and other laws of the Republic of Kazakhstan.

4. Laws of the Republic of Kazakhstan shall not reduce the level of rights, freedoms and guarantees established by this Code.

#### **Article 9. Minimum social standards in labor area**

The minimum monthly salary, duration of daily work (work shift), the main paid annual leave, are the minimum social standards in the labor area in accordance with the Law of the Republic of Kazakhstan “On Minimum social standards and their guarantees”.

#### **Article 10. Labor agreements, agreements of the parties to social partnership, collective contracts, acts of the employer in labor area**

1. Labor relations, as well as other relations directly related to labor, are regulated by an employment contract, an employer's act, an agreement and a collective contract.

2. The provisions of the agreements of the parties to social partnership, collective agreements, labor contracts, employers' acts, worsening the situation of employees in comparison with the labor legislation of the Republic of Kazakhstan, are recognized as invalid and not subject to application.

3. The terms of agreements, collective contracts, labor contracts may not be changed unilaterally.

#### **Article 11. Acts of the employer**

The employer issues acts within his competence in accordance with this Code and other normative legal acts of the Republic of Kazakhstan, labor contract, agreements, collective contracts.

#### **Article 12. Order of taking into account the opinions of employees' representatives when issuing acts of the employer**

1. The employer, in cases stipulated by agreements, collective contract, issues acts taking into account the opinion of representatives of employees.

2. The employer submits a draft of employer's act and justification to the employee representatives. In the presence of several representatives of employees, they create a unified

representative body to take into account the opinions on the employer's acts, the numerical composition of which is proportional to the number of employees represented by them.

3. The draft of employer's act is discussed by representatives of employees no more than five working days from the date of its presentation. In the event that employees' representatives fail to provide a decision within the time limits established by this Code, the employer has the right to adopt the act without taking into account the opinions.

4. Decisions of employees' representatives are documented by a protocol that indicates consent (disagreement) of employees' representatives with the draft of employer's act, if available, their proposals are stated.

5. In the event that the opinion of employees' representatives does not contain agreement with the draft of employer's act or contains proposals for its amending, the employer:

1) when approved, issues an act, amended taking into account the proposals of representatives of employees;

2) if disagreed, has the right to conduct additional consultations with representatives of employees.

6. If an agreement is not reached on the drafts of the employer's acts, for publication of which the opinion of the employees' representatives should be taken into account in accordance with the agreements, collective contract, the disagreements that arise are drawn up by a protocol signed by one representative of the employer and employees, after which the employer has the right to adopt the act.

7. In the event that the published act of the employer contains provisions that violate or impair the rights and guarantees of employees provided for in this Code, labor, collective contracts, agreements, it may be appealed to the local labor inspectorate or to the court.

### **Article 13. Calculation of terms established by this Code**

1. The time period, established by this Code, labor or collective contract, is determined by the calendar date, the expiration of the period of time, which is calculated by years, months, weeks or days. The time period may also be determined by an indication of the event that should occur.

2. In the cases provided for by this Code, the time period is calculated in working days.

3. Duration of the term determined by the time period starts on the next day after the calendar date, the occurrence of the event, which determines its beginning.

4. The terms, calculated in years, months, weeks, expire in the corresponding dates of the last year, month, week. If the end of the period, calculated in months, falls on a month in which there

is no corresponding date, then the term expires on the last day of this month. The term, calculated in calendar weeks or days, includes the non-working days.

5. If the last day of the term falls on a non-working day, then the day of the end of the term shall be the first working day following it, unless otherwise provided by this Code.

#### **Article 14. Responsibility for violation of labor legislation of the Republic of Kazakhstan**

Persons, guilty of violating the labor legislation of the Republic of Kazakhstan, are liable in accordance with the laws of the Republic of Kazakhstan.

### **CHAPTER 2. STATE REGULATION IN LABOR RELATIONS AREA**

#### **Article 15. Competence of the Government of the Republic of Kazakhstan in labor relations regulation area**

The Government of the Republic of Kazakhstan:

1) develops the main directions and ensures implementation of the state policy in labor, labor safety and protection area;

2) determines the amount of social allowances for temporary disability;

3) approves the Model Regulations on conditions of remuneration and bonuses for executives of national companies, joint-stock companies, controlling interest in which belongs to the state;

4) approves the system of payment for labor for civil servants, employees of organizations, maintained at the expense of the state budget, employees of state enterprises;

5) concludes a general agreement with the republican associations of employers and republican associations of employees;

6) establishes the procedure for adoption of normative legal acts in labor safety and protection area by the relevant authorized bodies;

7) performs other functions entrusted to it by the Constitution, laws of the Republic of Kazakhstan and acts of the President of the Republic of Kazakhstan.

#### **Article 16. Competence of an authorized state body for labor in labor relations regulation area**

The authorized state body for labor:

1) implements the state policy in labor, labor safety and protection area;

2) organizes state control over observance of the labor legislation of the Republic of Kazakhstan, including requirements for labor safety and protection, legislation of the Republic of Kazakhstan on employment, and coordinates activities and checks the activities of the local labor inspectorate;

3) carries out methodological guidance and coordination of local executive bodies in labor relations regulation area;

4) requests the necessary information from local labor inspectorates on labor matters;

5) coordinates appointment of the chief state labor inspector of the region, the city of the republican significance, the capital;

6) coordinates the activities of state agencies to develop technical regulations in the area of occupational safety and labor protection;

7) performs coordination and interaction in the area of labor safety and protection with other state bodies, as well as representatives of employees and employers;

8) establishes the procedure for development, approval, replacement and revision of labor standards by the employer, standard norms and labor standards, uniform and (or) inter-industrial, model norms and labor standards for all areas of activity;

9) develops and approves a list of names of positions of employees related to administrative personnel;

10) establishes the procedure for submission, review and approval of labor standards in organizations, for the services (goods, works) of which the state regulation of tariffs (prices, charge rates) is introduced;

11) establishes the procedure for submission, review and approval of parameters for the system of payment for labor for employees of organizations, for services (goods, works) of which the state regulation of tariffs (prices, charge rates) is introduced;

12) registers branch and regional agreements concluded at the level of the region (a city of republican significance, the capital);

13) conducts training and attestation of state labor inspectors;

14) exercises control over the timely and objective conduct of an investigation of accidents related to work activity in the manner established by this Code and other normative legal acts of the Republic of Kazakhstan;

15) maintains international cooperation in labor relations regulation area;

16) determines the procedure for development, revision, approval and application of the Unified tariff and qualification reference book of works and occupations of workers, tariff and qualification characteristics of occupations of workers, the Qualification reference book of positions of managers, specialists and other employees, and the standard qualification characteristics of positions of managers, specialists and other employees of organizations;

16-1) develops and approves the Unified tariff-qualification reference book of works and occupations of workers, the tariff-qualification characteristics of occupations of workers, the Qualification reference book of positions of managers, specialists and other employees;

16-2) develops and approves the qualification characteristics of individual positions of specialists of government agencies and state enterprises common to all areas of activity;

17) considers and coordinates qualification reference books or standard qualification characteristics of positions of managers, specialists and other employees of organizations of various types of economic activity, developed and approved by the authorized state bodies of the relevant areas of activity;

18) determines the list of manufactures, workshops, professions and positions, a list of heavy work, work with harmful and (or) dangerous working conditions, the work in which gives the right for the reduced working hours, additional paid annual leave and higher wages, and the order of their provision (hereinafter - List of manufactures, workshops, professions and positions, a list of heavy work, work with harmful and (or) dangerous working conditions);

19) creates a commission to investigate group accidents in accordance with this Code and other normative legal acts of the Republic of Kazakhstan;

20) organizes monitoring and assessment of risks in the area of occupational safety and labor protection;

21) approves the model provision on labor arbitration;

22) establishes a unified procedure for calculating the average wage;

23) determines the procedure for admission to the civil service and holding a competition for employment of a civil servant;

24) defines general requirements for vocational training, retraining and skills development in the organization;

25) approves the form, the procedure for keeping and storing work record books;

26) approves the list of works where the labor of workers under the age of eighteen is prohibited, the maximum standards for carrying and transporting heavy loads by workers under the age of eighteen;

27) approves the list of works where female labor is prohibited, the maximum standards for manual lifting and moving of heavy loads by women;

28) approves the model provision on labor safety and protection in the organization;

29) determines the procedure for mandatory periodic attestation of production facilities for working conditions;

30) determines the procedure and terms for conducting training, instructing and checking the knowledge on labor safety and protection of workers;

31) establishes the procedure for development, approval and revision of the instruction on labor safety and protection by the employer;

32) determines the procedure for allocation and payment of social benefits for temporary disability;

33) approves the procedure for issuing milk or equivalent foodstuffs, therapeutic and preventive nutrition, special clothes and other personal protective items to employees, and also establishes the procedure for providing them with means of collective protection, sanitary facilities and devices at the expense of the employer;

34) approves, upon agreement with the central authorized body on budget planning, the norms for issuing milk to workers or equivalent food products, therapeutic and preventive nutrition;

35) approves, upon agreement with the central authorized body on budget planning, the norms for issuing special clothes and other personal protective items to workers of organizations of various economic activities;

36) develops and approves the procedure for declaring the activities of the employer;

37) determines the priorities of scientific developments in the area of labor safety and protection and labor relations regulation;

38) organizes development of scientific, scientific and technical projects and programs financed from the state budget, and implements them;

39) develops and approves the form of recording of collective labor disputes;

40) develops and approves uniform cross-industry standards for the number of employees who provide technical services and functioning of state bodies;

40-1) coordinates industry standards for the number of employees who provide technical services and functioning of state bodies, which are developed and approved by the state bodies of



the relevant areas of activity in accordance with the procedure established by the authorized state body for labor;

41) coordinates the registers of civil servants' posts, developed and approved by the relevant authorized state bodies of the relevant areas of activity;

42) exercises other powers provided for by this Code, laws of the Republic of Kazakhstan, acts of the President of the Republic of Kazakhstan and the Government of the Republic of Kazakhstan.

Footnote. Article 16 as amended by the Law of the Republic of Kazakhstan dated 06.04.2016 № 483-V (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

### **Article 17. Competence of local labor inspectorate**

Local labor inspectorate:

1) carries out the state control over observance of the labor legislation of the Republic of Kazakhstan, including requirements for labor safety and protection;

2) monitors collective contracts submitted by employers;

3) conducts an analysis of the causes of occupational injuries, occupational diseases, occupational poisoning and develops recommendations for their prevention;

4) investigates accidents related to work activity, in accordance with the procedure established by this Code and other normative legal acts of the Republic of Kazakhstan;

5) conducts a verification of knowledge of persons responsible for ensuring labor safety and protection of employers;

6) participates in the acceptance commission for acceptance into operation of production facilities;

7) interacts with representatives of employees and employers on matters of improving labor safety and protection standards;

8) considers appeals of employees, employers and their representatives on labor safety and protection issues;

9) monitors attestation of production facilities for working conditions;

10) develops and approves schedules of inspections in accordance with the Entrepreneurship Code of the Republic of Kazakhstan;

11) submits periodic reports to the authorized state body for labor, as well as the results of monitoring the state of labor safety and protection on the basis of the information system on labor protection and safety;

12) conducts monitoring of collective labor disputes in the form established by the authorized state body for labor;

13) provides the necessary information on labor relations to the authorized state body for labor;

14) carries out the declaring of the employer's activities.

### **Article 18. Competence of local executive bodies in labor relations regulation area**

Local executive bodies:

implement the state policy in the labor, labor safety and protection area;

**Note by RCLI!**

**Amendment of sub-point 2) is provided by the Law of the Republic of Kazakhstan dated 15.06.2017 № 73-VI (shall be enforced from 01.01.2019)**

2) in coordination with the local representative body, determine the list of positions of specialists in health area, social security, education, culture, sports and veterinary, who are civil servants and working in rural areas;

3) register the industrial and regional agreements concluded at the municipal, district level;

4) coordinate the conduct of strikes in organizations, ensuring the activity of the population (public transport, organizations that supply water, electricity, heating);

5) conclude regional (regional, municipal, district) agreements with regional associations of employers and regional associations of workers;

6) review and agree on the parameters of the remuneration system for employees of organizations, for the services (goods, works) of which the state regulation of tariffs (prices, fee rates) is introduced, in the manner established by the authorized state body for labor;

7) establish a quota for employment of categories of the population defined by the laws of the Republic of Kazakhstan;

8) carry out, in the interests of local government, other powers vested in local executive bodies by the legislation of the Republic of Kazakhstan.

## **CHAPTER 3. SUBJECTS OF LABOR RELATIONS. GROUNDS FOR EMERGENCE OF LABOR RELATIONS**

### **Article 19. Subjects of labor relations**

The subjects of labor relationship are the employee and the employer.

The head of a branch or representative office of a foreign legal entity exercises all rights and fulfills all obligations of the employer on behalf of this legal entity.

### **Article 20. Representatives of employees and their powers**

1. The interests of employees within the powers delegated to them are represented by the bodies of trade unions in accordance with the Law of the Republic of Kazakhstan "On Trade Unions", and in their absence – the elective representatives.

2. Workers, who are not members of the trade union, who did not participate in the election of the elective representatives of workers, have the right to delegate the right to represent their interests to trade union bodies, the elective representatives of employees. On the basis of a written application of an employee, the trade union bodies, the elective representatives of employees ensure representation of his interests.

3. The elective representatives of employees have the right:

1) to represent and protect the labor rights and interests of employees;

2) to conduct collective negotiations with the employer on development of projects and conclusion of collective contracts;

3) in accordance with collective contracts to visit workplaces for studying and taking measures to ensure normal working conditions;

4) to participate in settlement of labor disputes between the employee and the employer in accordance with the procedure established by this Code.

### **Article 21. Grounds for emergence of labor relations**

1. Labor relations arise between the employee and the employer on the basis of an employment contract concluded in accordance with this Code, except for the cases established by the laws of the Republic of Kazakhstan.

2. In the cases and in the manner established by the laws of the Republic of Kazakhstan, the constituent documents, acts of the employer, conclusion of the employment contract may be preceded by the following procedures:

- 1) election (election) for the position;
- 2) election by competition for the relevant post;
- 3) appointment or confirmation to a post;
- 4) referral to work by the bodies authorized by the laws of the Republic of Kazakhstan in accordance with the established quota;
- 5) making a court decision on concluding an employment contract.

3. Labor relations with the head of the executive body of a legal entity shall be carried out in accordance with this Code, laws of the Republic of Kazakhstan, constituent documents and an employment contract.

## **Article 22. Basic rights and obligations of the employee**

1. The employee has the right:
  - 1) for conclusion, amendment, addition, termination and cancellation of an employment contract in the manner and under the conditions provided for by this Code;
  - 2) to require from the employer to fulfill the conditions of labor, collective contracts;
  - 3) for safety and labor protection;
  - 4) for obtaining complete and reliable information on the state of working conditions and labor protection;
  - 5) for timely and full payment of wages in accordance with the terms of labor, collective contracts;
  - 6) for payment of downtime in accordance with this Code;
  - 7) for the rest time, including the paid annual work leave;
  - 8) for association, including the right to establish a trade union, as well as membership in it, for provision and protection of their labor rights, unless otherwise provided by the laws of the Republic of Kazakhstan;
  - 9) for participation through their representatives in collective negotiations and drafting of a collective contract, as well as acquaintance with the signed collective contract;
  - 10) for compensation for damage caused to health in connection with the performance of labor duties;

- 11) for compulsory social insurance;
- 12) for insurance against accidents in performance of labor (service) duties;
- 13) for guarantees and compensation payments;
- 14) for protection of their rights and legitimate interests by all means that do not contradict the law;
- 15) for an equal pay for equal work without any discrimination;
- 16) for applying for resolution of an individual labor dispute consistently to the conciliation commission, the court in the manner provided for by this Code;
- 17) for a workplace equipped in accordance with the requirements of safety and labor protection;
- 18) for provision with individual and collective protection means, special clothing in accordance with the requirements stipulated by the legislation of the Republic of Kazakhstan, as well as labor, collective contracts;
- 19) for refusal to perform work in the event of a situation that poses a threat to the health or life, with notification to the direct manager or representative of the employer about it;
- 20) for applying to the authorized state body for labor and / or the local labor inspectorate to conduct a survey of labor safety and protection conditions in the workplace, as well as to participate in verification and review of issues related to improving conditions, safety and labor protection;
- 21) for appeal against the actions (inaction) of the employer in the area of labor relations directly related to them;
- 22) for payment for labor in accordance with qualifications, complexity of labor, the quantity and quality of the work performed, as well as working conditions;
- 23) for resolution of individual and collective labor disputes, including the right to strike, in the manner prescribed by this Code, other laws of the Republic of Kazakhstan;
- 24) for protection of personal data held by the employer.

2. The employee is obliged to:

- 1) perform labor duties in accordance with agreements, labor, collective contracts, acts of the employer;
- 2) observe work discipline;

3) comply with the requirements for safety and labor protection, fire safety, industrial safety and industrial sanitation in the workplace;

4) take good care of the property of the employer and employees;

5) inform the employer of the situation that poses a threat to the life and health of people, the safety of the employer's and workers' property, and the occurrence of downtime;

6) not disclose information constituting state secrets, official, commercial or other secret protected by law, which became known to him in connection with performance of his duties;

7) compensate the employer for the damage caused within the limits established by this Code and other laws of the Republic of Kazakhstan.

3. The employee has other rights and performs other duties stipulated by this Code.

### **Article 23. Basic rights and obligations of the employer**

1. The employer has the right:

1) for freedom of choice when hiring;

2) to amend, supplement, terminate and cancel the employment contracts with employees in the manner and on the grounds established by this Code;

3) to issue the acts of the employer within the limits of their authority;

4) to establish and join associations to represent and protect their rights and interests;

5) to require from the employees to fulfill the terms of labor, collective contracts, labor regulations and other acts of the employer;

6) to encourage employees, impose disciplinary sanctions, involve employees in material liability in cases and in the manner provided for in this Code;

7) for compensation for damage caused by the employee when performing his duties;

8) to apply to the court in order to protect their rights and legitimate interests in labor area;

9) to establish a probationary period for the employee;

10) to provide workers with vocational training, retraining and upgrading of their skills in accordance with this Code;

11) for reimbursement of its costs associated with training an employee in accordance with this Code;

12) to apply for resolution of an individual labor dispute consistently to the conciliation commission, the court in the manner prescribed by this Code.

2. The employer is obliged:

1) to comply with the requirements of the labor legislation of the Republic of Kazakhstan, agreements, collective contracts, employment contracts, acts issued by him;

2) when hiring, to conclude employment contracts with employees in the manner and under the conditions established by this Code;

3) when hiring, to require documents necessary for conclusion of an employment contract, in accordance with Article 32 of this Code;

4) to provide the employee with work stipulated by the employment contract;

5) timely and in full, to pay the employee wages and other payments provided for by normative legal acts of the Republic of Kazakhstan, labor, collective contracts, acts of the employer;

6) to familiarize the employee with the rules of the labor regulations, other acts of the employer that are directly related to the work (labor function) of the employee, and the collective contract;

7) to consider the recommendations of representatives of employees and provide the representatives of employees with complete and reliable information necessary for collective negotiations, collective contracts, as well as monitoring of their implementation;

8) to conduct collective negotiations in the manner established by this Code, to conclude a collective contract;

9) to provide workers with working conditions in accordance with the labor legislation of the Republic of Kazakhstan, labor, collective contracts;

10) to provide the employees with equipment, tools, technical documentation and other means necessary for performance of their duties, at their own expense;

11) to provide information to the authorized body on employment in accordance with the requirements of the legislation of the Republic of Kazakhstan on employment;

12) to comply with the requirements of state labor inspectors;

13) to suspend work if its continuation creates a threat to life, health of the employee and other persons;

14) to provide compulsory social insurance of employees;

15) to insure the employee against accidents in performance of his labor (official) duties;

16) to provide the employee with an annual paid leave;

17) to ensure safety and delivery of documents to the state archive, confirming the work activity of employees and information on withholding and deduction of money for their pension provision;

18) to warn the employee about harmful and (or) dangerous working conditions and the possibility of occupational disease;

19) to take measures to prevent risks in the workplace and in technological processes, carry out preventive work taking into account the production and scientific and technological progress;

20) to keep records of working hours, including overtime, in harmful and (or) dangerous working conditions, on heavy work performed by each employee;

21) to compensate for the harm caused to the life and health of the employee while performing his labor (official) duties in accordance with this Code and other laws of the Republic of Kazakhstan;

22) to provide free access for officials of the authorized state labor body and local labor inspectorate, representatives of employees, technical inspectors for labor protection to inspect safety, conditions and labor protection in organizations and compliance with the legislation of the Republic of Kazakhstan, as well as to investigate accidents related to labor activity, and occupational diseases;

23) to ensure the maintenance of registers or other documents determined by the employer, in which the name, first name, patronymic (if indicated in the identity document) and the date of birth of employees under the age of eighteen are indicated;

24) to collect, process and protect personal data of the employee in accordance with the legislation of the Republic of Kazakhstan on personal data and their protection;

25) to carry out internal control over labor safety and protection.

3. The employer has other rights and performs other duties stipulated by this Code.

## **SPECIAL PART SECTION 2. LABOR RELATIONS CHAPTER 4. EMPLOYMENT CONTRACT**

### **Article 24. Subject of the employment contract**

According to the employment contract, the employee undertakes to perform work (labor function) in person, observe the rules of the work schedule, and the employer undertakes to provide the employee with work on the stipulated labor function, provide working conditions



stipulated by this Code, laws of the Republic of Kazakhstan and other normative legal acts of the Republic of Kazakhstan, collective contracts, acts of the employer, to pay the employee wages timely and in full.

### **Article 25. Guarantees of equality of rights and opportunities in conclusion of an employment contract**

1. It is prohibited to violate the equality of rights and opportunities when concluding an employment contract.

2. Pregnancy, the presence of children under the age of three, minority, disability may not restrict the right to conclude an employment contract, except for the cases provided for by this Code.

### **Article 26. Prohibitions and restrictions for conclusion of employment contract and employment**

1. It is not allowed to enter into an employment contract:

1) to perform the work, contraindicative to a person for health reasons on the basis of a medical opinion;

2) with citizens who have not reached the age of eighteen, for heavy work, the work with harmful and (or) dangerous working conditions, as well as for positions and works that provide for the full material responsibility of the employee for failure to ensure the safety of property and other valuables of the employer, as well as for work that can harm their health and moral development (gambling, work at night entertainment facilities, production, transportation and trade of alcoholic beverages, tobacco products, drugs psychotropic substances and precursors);

3) with citizens who are deprived of the right to hold a certain position or engage in certain activities in accordance with an effective court verdict;

4) with foreigners and stateless persons temporarily staying on the territory of the Republic of Kazakhstan until the local executive body issues a permission to employ foreign labor or a certificate of qualification for independent employment issued in accordance with the procedure determined by the authorized body for migration issues to foreign workers or before obtaining permission for a labor immigrant issued by the internal affairs bodies in accordance with the procedure established by the Ministry of Internal Affairs of the Republic of Kazakhstan, or without observance of limitations or exemptions established by the laws of the Republic of Kazakhstan;

5) with foreign students and trainees temporarily staying on the territory of the Republic of Kazakhstan, who did not submit certificates from the education organization indicating the form of training or the host organization for vocational training and (or) internship and a residence permit for the purpose of training;

6) with foreigners and stateless persons temporarily staying on the territory of the Republic of Kazakhstan, who have not submitted a permission to enter and stay with the aim of family reunification and a document confirming the state of marriage with a citizen of the Republic of Kazakhstan recognized by the legislation of the Republic of Kazakhstan;

7) for performance of work (rendering of services) in the household by one employer - an individual simultaneously with more than five labor immigrants.

## 2. Employment is not permitted:

1) in a commercial organization, except for government agencies and organizations, in the authorized capital of which the state's share is more than fifty percent, including the national managing holdings, national holdings, national companies, national development institutes, the shareholder of which is the state, their subsidiaries, more than fifty percent of voting shares (participation shares) of which belong to them, as well as legal entities, more than fifty percent of voting shares (participation shares) of which belong to these subsidiaries, of the person within one year after termination of his public service, if in the last year before termination of public service during execution of government functions the person by virtue of his official powers directly exercised control in the form of inspections of the commercial organization or the activity of this commercial organization was directly connected with the said person in accordance with his competence;

2) in state enterprises on the basis of the right of economic management, national managing holdings, national development institutions, national holdings and national companies, as well as their subsidiaries for a position related to the performance of management functions, of the person who previously committed a corruption crime,;

3) in the organization in the field of education, upbringing and development, recreation and rehabilitation, physical culture and sports, medical provision, provision of social services, culture and art with participation of minors, of the persons who have or have been convicted, subjected to criminal prosecution (except for persons, the criminal prosecution against whom was terminated on the basis of subparagraphs 1) and 2) of the part one of Article 35 of the Criminal Procedure Code of the Republic of Kazakhstan) for criminal violations: murder, deliberate harm to health, against public health and morality, sexual inviolability, extremist or terrorist crimes, human trafficking;

4) women for heavy work, work with harmful and (or) dangerous working conditions according to the List of works where the female labor is prohibited;

5) for part-time jobs of employees under the age of eighteen, and for workers engaged in heavy work, work with harmful and (or) dangerous working conditions.

Footnote. Article 26 as amended by the Article 204 of the Labour code of the Republic of Kazakhstan dated 23.11.2015 № 414-V (shall be enforced from 01.01.2017).

## **Article 27. Difference of an employment contract from other types of contracts**

Distinctive features of an employment contract from other types of contracts are the presence of one of the following conditions in it:

- 1) performance of work (labor function) by the employee on a particular qualification, specialty, profession or position;
- 2) fulfillment of obligations in person with subordination to the labor regulations;
- 3) the receipt of wages for work by the employee.

#### **Article 28. Content of the employment contract**

1. The employment contract shall contain:

1) requisites of the parties:

surname, first name, patronymic (if it is indicated in the identity document) of the employer - an individual, the address of his permanent residence and information on registration at the place of residence, name, number and date of issuance of the identity document;

individual identification number (business identification number);

the name of the employer - legal entity and its location, the number and date of state registration of the employer - a legal entity, business identification number;

surname, first name, patronymic (if it is indicated in the identity document) of the employee, the address of his permanent residence and information on registration at the place of residence, name, number, date of issuance of the identity document, the individual identification number;

- 2) work for a certain specialty, profession, qualification or position (labor function);
- 3) place of work performance;
- 4) the term of the employment contract;
- 5) the date of commencement of work;
- 6) the working hours and rest time;
- 7) the amount and other terms of remuneration for labor;
- 8) characteristics of working conditions, guarantees and benefits, if the work is heavy and (or) performed in harmful and (or) dangerous conditions;
- 9) the rights and duties of the employee;

- 10) the rights and obligations of the employer;
- 11) the procedure for amending and terminating the employment contract;
- 12) responsibility of the parties;
- 13) the date of conclusion and the serial number.

2. The employment contract concluded with the disabled person must contain the conditions for equipping the workplaces in accordance with their individual capabilities.

3. By agreement of the parties, other terms that are not inconsistent with the legislation of the Republic of Kazakhstan may be included in the employment contract.

### **Article 29. The condition of non-competition**

1. By agreement of the parties between the employer and the employee, a non-competition agreement may be concluded, which provides for the employee's obligation not to carry out actions that could cause damage to the employer.

2. The non-competition agreement establishes limitations and conditions for their adoption, and compensation may be established for the period of this condition, except for cases when the non-competition condition is stipulated by the legislation of the Republic of Kazakhstan.

3. The list of posts and works, occupied or performed by employees with whom a non-competition agreement can be concluded is approved by the employer's act.

### **Article 30. Term of employment contract**

1. An employment contract may be concluded:

1) for an indefinite period;

2) for a certain period of not less than one year, except for the cases established by subparagraphs 3), 4), 5) and 6) of this paragraph.

At the expiry of the term of the employment contract, the parties are entitled to extend it for an indefinite or definite period of not less than one year.

In the event that the term of the employment contract expires, if neither of the parties has notified in writing on termination of the employment relationship on the last working day (shift), it shall be considered extended for the same period for which it was earlier concluded, except for the cases provided for in paragraph 2 of Article 51 of this Code.

The number of prolongations of the term of the employment contract, concluded for a certain period of not less than one year, may not exceed two times.

With the continuation of labor relations, the employment contract is considered concluded for an indefinite period;

3) for the duration of a certain work;

4) for the period of replacement of the temporarily absent employee;

5) for the period of seasonal work;

6) within the time limits established by the legislation of the Republic of Kazakhstan for performance of work by foreign workers arriving for independent employment, the permits, issued by the local executive body for attraction of foreign labor or a work permit issued by the internal affairs authorities to a labor immigrant.

2. Small business entities may enter into employment contracts with employees for a fixed period without the restriction provided for in subparagraph 2) of paragraph 1 of this article.

3. An employment contract with a foreign employee of a state body is concluded for a period determined by the head of the state body.

4. An employment contract with the head of the executive body of a legal entity shall be concluded by the owner of the property of the legal entity or by the person (body) authorized by him or by an authorized body of the legal entity or by a person authorized by him for a term and in the order established by laws of the Republic of Kazakhstan, constituent documents or agreement of the parties.

In the event of expiration of the employment contract concluded with the head of the executive body of the legal entity, if neither of the parties has notified of termination of employment relationship not later than the last working day before the expiry of the employment contract, the employment contract is extended for a period until the decision is made by the founders, the owner of property of a legal entity or an authorized person (body) or an authorized body of a legal entity on the election (appointment, confirmation to a post) of a new head, or the same person, unless another period of extension is defined by this decision.

5. With an employee who has reached the retirement age in accordance with paragraph 1 of Article 11 of the Law of the Republic of Kazakhstan "On Pensions in the Republic of Kazakhstan" and possesses a high professional and qualification level, taking into account his efficiency, the employment contract may be prolonged annually without the restriction provided for in the part four of subparagraph 2) of paragraph 1 of this article.

Footnote. Article 30 as amended by the Laws of the Republic of Kazakhstan dated 06.04.2016 № 483-V (shall be enforced upon expiry of ten calendar days after the day of its first official publication); dated 23.11.2015 № 414-V (shall be enforced from 01.01.2017).

### **Article 31. The age when conclusion of employment contract is allowed**

1. Conclusion of an employment contract is allowed with citizens who have reached the age of sixteen.

2. The employment contract may be concluded with:

1) citizens who have reached the age of fifteen years, if they obtained a basic secondary, general secondary education in organization of secondary education;

2) pupils who have reached the age of fourteen, to perform work when they are free from their studies, which does not cause harm to health and does not impede the learning process;

3) persons who have not reached the age of fourteen, in the organizations of cinematography, theaters, theatrical and concert organizations, circuses for participation in creation and (or) performance of works without prejudice to health and moral development, subject to the conditions specified in subparagraph 2) of this paragraph.

3. In cases specified in paragraph 2 of this article, along with a minor, the employment contract must be signed by one of his parents, a custodian, a trustee or an adoptive parent.

### **Article 32. Documents required for conclusion of an employment contract**

1. To conclude an employment contract, the following documents are required:

1) an identity card or passport (birth certificate for persons under the age of sixteen).

Oralmans present an oralman's certificate issued by local executive bodies;

2) a residence permit or a certificate of a stateless person (for foreigners and stateless persons permanently residing in the territory of the Republic of Kazakhstan) or a refugee certificate;

3) a degree certificate, qualifications, the availability of special knowledge or professional training when concluding an employment contract for work that requires appropriate knowledge and skills;

4) a document confirming the work activity (for persons who have a working experience);

5) a document on preliminary medical examination (for persons who are obliged to undergo such an examination in accordance with this Code and other normative legal acts of the Republic of Kazakhstan).

2. To conclude an employment contract in the field of education, upbringing, recreation and rehabilitation, physical training and sports, medical provision, provision of social services, culture and art with the participation of minors, the person shall provide a certificate of the presence or absence of information on commission of a criminal offense: murder, deliberate harm to health, against health of the population and morals, sexual inviolability, extremist or terrorist crimes, human trafficking.

3. When entering the civil service, state enterprises on the basis of the right of economic management, national managing holdings, national development institutions, national holdings and national companies, as well as their subsidiaries, for a position related to performance of management functions, the person submits a certificate of presence or absence of information about commission of corruption-related offense.

4. To conclude an employment contract on a part-time job with another employer, the employee presents a certificate of the nature and conditions of work at the main place of work (place of work, position, working conditions).

5. The list of documents required for conclusion of an employment contract when attracting foreign employees of a state body is determined in accordance with the procedure for attracting foreign workers approved by the Government of the Republic of Kazakhstan.

6. The employer has no right to demand documents that are not provided for by paragraph 1 of this article, except for the cases provided for by laws and other normative legal acts of the Republic of Kazakhstan.

7. If the employee agrees that the employer keeps original documents or temporarily leaves them to perform the procedures established by the legislation of the Republic of Kazakhstan, the employer issues a written obligation to the employee to return the documents.

### **Article 33. The procedure for concluding, amending and supplementing an employment contract**

1. The employment contract is concluded in writing in at least two copies and signed by the parties. One copy of the employment contract is kept by the employee and another copy – by the employer.

2. Introduction of amendments and additions to the employment contract, including when transferring to another job, is carried out by the parties in writing in the form of an additional agreement in the manner provided for in paragraph 1 of this article.

Notification of a change in the terms of the employment contract is filed by one of the parties to the employment contract and is considered by the other party within five working days from the date of its filing. The party that received notice of a change in the terms of the employment contract, including when transferring to another job, is obliged, within the time limit specified in this article, to inform the other party of the decision taken.

3. Admission of a person to the work is carried out only after conclusion of the employment contract.

In the absence and (or) non-conclusion of the employment contract due to the fault of the employer, he is liable in accordance with the procedure established by the laws of the Republic of Kazakhstan. In this case, the employment relationship is considered to have arisen from the day the employee commenced work.

4. Recognition of an employment contract as invalid through the fault of the employer does not entail loss of the right by the employee to be paid for work, compensation for unused days of paid annual leave, other payments and benefits.

Recognition of certain conditions of an employment contract as invalid does not entail invalidity of the employment contract as a whole.

#### **Article 34. Hiring procedure**

Admission to work is documented by an employer's act issued on the basis of the concluded employment contract.

#### **Article 35. Documents confirming the work activity of the employee**

The document confirming the work activity of an employee may be any of the following ones:

- 1) work record book;
- 2) the employment contract with the employer's note on the date and reason for its termination;
- 3) extracts from the employer's acts confirming the occurrence and termination of labor relations on the basis of conclusion and termination of the employment contract;
- 4) extracts from the payroll for employees;
- 5) service list (a list of information about the work, work activity of the employee), signed by the employer, certified by the seal of the organization (if any);
- 6) extracts from the unified accumulative pension fund on the mandatory pension contributions made;
- 7) information from the State social insurance fund on social contributions made;
- 8) an archive certificate containing information on the employee's work activity.

#### **Article 36. Condition of probation period in employment contract**

1. When concluding an employment contract, the employment contract may contain the condition of a probation period in order to verify the compliance of the employee's qualification with the work given. The probation period starts from the beginning of the employment contract.

2. The probation period is included in the work experience of the employee and may not exceed three months. For the heads of organizations and their deputies, chief accountants and



their deputies, heads of branches, representative offices of organizations, the probation period may be increased to six months.

3. The probation period is suspended for the period when the employee was actually absent from office.

### **Article 37. Result of probation period in hiring**

1. In the event of a negative result of the employee's work during the probation period, the employer has the right to terminate the employment contract with him, notifying him in writing, indicating the reasons that were the basis for termination of the employment contract.

2. If the probation period has expired and neither party has notified of the termination of the employment contract, the employee is considered to have passed the probation period.

### **Article 38. Transfer of an employee to another job**

1. Transfer of an employee to another job is:

1) change of the work (labor function) of the employee, that is, performing work on another position, specialty, profession, qualification;

2) assignment of other work, in performance of which the working conditions (wages, working hours and rest time, benefits and other conditions) change, stipulated by the employment contract;

3) transfer to a separate structural division of the employer;

4) transfer to another locality together with the employer.

2. Transfer of an employee to another job is allowed with the consent of the employee, documented by introduction of appropriate changes in the employment contract and the employer's act, except for cases provided for by this Code.

3. It is not allowed to transfer the employee to another job if there are contraindications for the employee due to the state of health, confirmed by a medical certificate.

### **Article 39. Transfer of an employee to another locality together with the employer**

1. The employer is obliged to notify the employee in writing about the forthcoming relocation of the employer to another locality no later than one month, unless the labor, collective contract provides for a longer notice period.

2. In the event of a written refusal of an employee from transfer to another locality, together with the employer, the employment contract with the employee is terminated on the basis provided for by subparagraph 1) of paragraph 1 of Article 58 of this Code.

## **Article 40. Secondment of an employee to another legal entity**

1. Secondment is the performance of work by an employee (seconded) in a certain specialty, qualification or position (labor function), stipulated by an employment contract, or in another position, specialty, qualification from another legal entity, with the exception of restrictions provided for by the legislation of the Republic of Kazakhstan.

In order to ensure fulfillment of certain tasks, employees may be seconded:

1) to a legal entity, shares (participation share) of which directly or indirectly belong to the legal entity from which the employee is seconded;

2) to a legal entity who directly or indirectly own the voting shares (participatory interests) of the legal entity from which the employee is seconded.

2. The list of positions and the number of seconded employees shall be established by a written agreement between legal entities, depending on the purposes of the secondment.

3. Conditions, procedure and term for secondment of an employee shall be determined by an agreement signed between legal entities and a seconded employee.

In the case of simultaneous secondment of employees of more than ten percent of the average staff number of legal entities to which employees are seconded, it is necessary to agree with representatives of employees of the legal entity to whom the employees are seconded.

The order of coordination is determined by agreement of the parties between legal entities and representatives of employees.

4. The seconded employee retains the place of work (position) at the employer who performs the secondment.

5. Secondment is allowed only with the written consent of the parties to the employment contract by signing an additional agreement to the employment contract indicating the place of work for the secondment period. At the end of the term of secondment, the employer undertakes to provide the employee with the place of work (position) that the employee held prior to secondment.

6. For the period of secondment, the employee is covered by the working hours and rest periods of the legal entity to which he is seconded, except for the duration and procedure for providing an annual paid leave.

7. In the event of a violation by a seconded employee of a labor discipline, the legal entity to which he is seconded shall notify the employer of the seconded worker within three working days with submission of supporting documents for making a decision to bring him to disciplinary liability in accordance with the labor legislation of the Republic of Kazakhstan.

8. In the event of an accident involving a seconded employee, the organization of an investigation of an accident related to work activity is entrusted to the legal entity to which the employee was seconded, with participation of the employer's representative.

#### **Article 41. Temporary transfer to another job in case of production necessity**

The employer, in the event of a production necessity, including temporary replacement of the absent employee, has the right to transfer the employee without his consent for up to three months within a calendar year to another work not specified by the employment contract and not contraindicated for him for health reasons in the same organization, in the same area or in the structural subdivision of the employer located in another locality, with payment for the work performed, but not lower than the average salary for the previous work.

In case of temporary transfer to the structural unit of the employer located in another locality, the employee receives compensation in the amounts provided for in Article 127 of this Code.

#### **Article 42. Temporary transfer to another job in case of downtime**

1. In the event of downtime, the employer has the right to transfer the employee without his consent for the whole period of downtime to another work that is not contra-indicated for the state of health.

2. In case of temporary transfer to another job in the event of a downtime, the employee is paid for the work performed.

#### **Article 43. Temporary transfer to another job for health reasons**

1. In connection with a work injury, occupational disease or other health damage resulting from performance of labor duties or other health damage that is not related to production, on the basis of a medical certificate, the employer is obliged, before restoration of work capacity or establishment of disability or establishment of a loss of professional capacity, to temporarily transfer the employee to an easier work or to release him from work on the terms stipulated in the labor, collective contracts.

2. In the case of a written refusal of an employee from a temporary transfer to an easier job in connection with a production injury, occupational disease or other damage to health, or due to deterioration of health not related to production, the employment contract with the employee is terminated on the grounds provided for in subparagraph 3) paragraph 1 of Article 58 of this Code.

#### **Article 44. Temporary transfer of pregnant women to another job**

The employer, on the basis of a medical certificate, is obliged to transfer a pregnant woman to another job, excluding the impact of harmful and (or) dangerous production factors, while preserving the average wage.

Before giving a pregnant woman another job, she is subject to exemption from work while maintaining the average wage.

In case if a pregnant woman refuses to be transferred to another job offered by the employer, she shall be released from performance of the contra-indicated work without saving wages until the granting of maternity leave.

#### **Article 45. Moving an employee to another workplace. Change of the name of the position (work)**

1. The consent of the employee is not needed to move him to another workplace or to another structural unit in the same locality, or to task him to work on another mechanism or unit within the limits of the post, specialty, profession, qualification, stipulated by the employment contract.

2. The change in the name of the position (work) of the employee, the structural unit, the change in the management structure that does not entail changes in the working conditions for the employee, may be carried out by the employer without the consent of the employee.

#### **Article 46. Change in working conditions**

1. In connection with changes in organization of production associated with reorganization or changes in economic, technological conditions, conditions of work organization and (or) reduction in the scope of work of the employer, it is allowed to change the working conditions of the employee when continuing to work in accordance with his specialty or profession, relevant qualifications. When the working conditions change, appropriate amendments and changes to the employment contract are made.

2. The employer is obliged to notify the employee in writing about changes in working conditions that occurred for the reasons specified in paragraph 1 of this article, not later than fifteen calendar days, unless the labor, collective contract provides for a longer notice period.

3. In the case of a written refusal of an employee to continue working in connection with a change in working conditions, the employment contract with the employee is terminated on the grounds provided for by subparagraph 2) of paragraph 1 of Article 58 of this Code.

In the event that the circumstances specified in paragraph 1 of this article may lead to a reduction in the staff number or staff of workers, the employer has the right to introduce a part-time work in order to save jobs.

#### **Article 47. Labor relations with the change of the name, departmental affiliation of the employer, change of the owner of shares (participation interests) of the legal entity, reorganization of the employer - legal entity**

In cases of changing the name, departmental affiliation of the employer, change of the owner of shares (participation interests) of the legal entity, reorganization of the employer - legal entity, the labor relations with employees continue unchanged.

## **Article 48. Suspension from work**

1. In cases stipulated by the laws of the Republic of Kazakhstan, the employer is obliged to suspend the employee from work on the basis of acts of the relevant authorized state bodies.

2. In addition to the cases provided for in paragraph 1 of this article, the employer must suspend the employee from the work:

1) for being at work in a state of alcoholic, narcotic and drug abuse intoxication (its analogues) or for consuming the substances causing such intoxication during the working day;

2) if he has not passed the testing of knowledge on labor safety and protection or industrial safety;

3) for not using the means of individual and (or) collective protection provided by the employer;

4) if he has not undergone a medical examination or pre-shift medical examination, if they are mandatory in accordance with the legislation of the Republic of Kazakhstan;

5) in the event of loss of the right by the employee to drive the vehicle or other permits necessary to perform the work stipulated by the employment contract;

6) if his actions or inaction have entailed or could result in an emergency situation, a breach of the rules of labor protection, fire safety or traffic safety on transport.

3. The employer has the right to suspend an employee from work who has not ensured the safety of property and other valuables transferred to the employee on the basis of a written contract on taking full responsibility.

4. For the period of suspension from work, the employee does not receive the wages and the allowance for temporary disability is not paid at the expense of the employer.

5. Suspension of the employee from work is carried out by the employer's act for a period until clarification and (or) elimination of the reasons that served as the basis for the suspension.

6. The employee retains his wages in case of his illegal suspension from work by the employer.

## **Article 49. Grounds for termination of employment contract**

Grounds for termination of employment contract are:

1) termination of an employment contract by agreement of the parties;

2) expiry of the term of the employment contract;

3) termination of the employment contract at the initiative of the employer;

4) in connection with the transfer of the employee to another employer;

5) termination of the employment contract at the initiative of the employee;

6) circumstances that do not depend on the will of the parties;

7) refusal of the employee to continue labor relationship;

8) the transfer of the employee to elective work (position) or his appointment to a position excluding the possibility of continuing labor relations, except for the cases provided for by laws of the Republic of Kazakhstan;

9) violation of the terms of conclusion of the employment contract.

#### **Article 50. Procedure for termination of an employment contract by agreement of the parties**

1. An employment contract may be terminated by agreement of the parties.

2. The party to the employment contract, who has expressed a desire to terminate the employment contract by agreement of the parties, sends a notice to the other party to the employment contract.

The party that received the notification is obliged within three working days to inform the other party in writing about the decision taken.

The date of termination of the employment contract by agreement of the parties is determined by agreement between the employee and the employer.

3. Under the agreement with an employee, an employment contract may provide for the employer's right to terminate an employment contract without complying with the requirements set forth in paragraph 2 of this article, with a compensation payment, the amount of which is determined by the employment contract.

#### **Article 51. Procedure for termination of employment contract after its expiry**

1. An employment contract concluded for a certain period is terminated due to the expiry of its term.

2. If, on the day of expiry of the term of the employment contract concluded for a certain period of not less than one year, a pregnant woman submits a medical report on pregnancy of twelve weeks or more, as well as an employee who has a child under the age of three, adopted the child and who wishes to use his right to the unpaid leave for childcare, will submit a written application for extension of the term of the employment contract, except for the cases of

replacement of a temporarily absent employee, the employer is obliged to extend the term of the employment contract until the day of termination of the parental leave.

3. The expiration date of the employment contract concluded for the period of performance of a certain work is the day of completion of work.

4. The date of expiration of the employment contract concluded for the period of replacement of the temporarily absent employee is the date of commencement of the employee's work, for which the place of work (position) was retained.

## **Article 52. Grounds for termination of an employment contract at the initiative of the employer**

1. Employment contract may be terminated with the employee at the initiative of the employer in the following cases:

1) liquidation of the employer - legal entity or termination of the activity of the employer - individual;

2) reduction in the staff number or workers;

3) decrease in the volume of production, work performed and services rendered, which led to worsening of the economic state of the employer;

4) non-compliance of the employee with the position held or the work performed due to insufficient qualification, confirmed by the results of attestation;

5) a repeated failure to check the knowledge on labor safety and protection or industrial safety issues by the employee responsible for ensuring the labor safety and protection of the organization carrying out production activities;

6) non-compliance of the employee with the position held or work performed due to the state of health, which prevents continuation of this work and excludes the possibility of its continuation;

7) a negative result of work during the probation period;

8) absence of an employee at work without reasonable excuse for three or more consecutive hours in a single working day (working shift);

9) finding an employee at work in a state of alcohol, narcotic, psychotropic, drug abuse intoxication (its analogues), including in cases of use the substances that cause a state of alcohol, narcotic, drug abuse intoxication (its analogues) during a working day;

10) refusal to undergo a medical examination to establish the fact of using substances causing a state of alcohol, narcotic, drug abuse intoxication, confirmed by the relevant act;

11) violation by the employee of the rules of labor protection or fire safety or traffic safety in transport, which entailed or could entail serious consequences, including industrial injuries and accidents;

12) the employee at the place of work stealing someone else's property (including small ones), deliberately destroying it or damaging it, established by a verdict or court order that entered into legal force;

13) committing the guilty actions or inaction of an employee servicing monetary or commodity values, if these actions or inaction give grounds for the loss of confidence in him by the employer;

14) committing an immoral offense by an employee performing educational functions incompatible with continuation of this work;

15) disclosure by an employee of information constituting state secrets and other secrets protected by law, which have become known to him in connection with performance of his duties;

16) a repeated non-fulfillment or repeated improper performance of labor duties without reasonable excuse by the employee, having a disciplinary sanction;

17) submission of deliberately false documents or information by the employee to the employer when entering into an employment contract or transferring to another job if the original documents or information could be grounds for refusing to conclude an employment contract or transfer to another job;

18) violation of labor duties by the head of the executive body of the employer, his deputy or the head of the employer's subdivision (branches, representative offices and other divisions of the employer, determined by the employer's act), which caused material damage to the employer;

19) termination of the employee's access to state secrets in cases established by the laws of the Republic of Kazakhstan;

20) absence of an employee from work for more than two months in a row due to temporary disability, except for cases when the employee is on maternity leave, and if the disease is included in the list of diseases for which a longer period of disability is established, approved by the authorized state body in health area.

The employee who has lost his ability to work due to an occupational injury or occupational disease, retains the place of work (position) until the ability is restored or disability is established;

21) the employee commits a corruption offense that excludes, in accordance with the enforced judicial act, the possibility of further work, except for the cases directly stipulated by the laws of the Republic of Kazakhstan;



22) continuation of the employee's participation in the strike after bringing to his attention the court's decision to recognize the strike as illegal or to suspend the strike;

23) termination of the powers of the head of the executive body, members of the collegial executive body of the legal entity, and also, in accordance with the Law of the Republic of Kazakhstan "On Joint Stock Companies", employees of the internal audit service and the corporate secretary, by decision of the owner of property of the legal entity or the person (body), authorized by the owner or an authorized body of the legal entity;

24) reaching the retirement age by the employee, established by paragraph 1 of Article 11 of the Law of the Republic of Kazakhstan "On Pensions in the Republic of Kazakhstan", with the right of annual extension of the term of the employment contract by mutual agreement of the parties;

25) absence of an employee from work for more than one month for reasons unknown to the employer.

2. An employment contract on part-time employment may be terminated at the initiative of the employer in the event of conclusion of an employment contract with the employee for whom this work will be the main one.

Footnote. Article 52 as amended by the Law of the Republic of Kazakhstan dated 06.04.2016 № 483-V (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

### **Article 53. Procedure for termination of an employment contract at the initiative of the employer**

1. The employer, upon termination of the employment contract on the grounds provided for by subparagraphs 1) and 2) of paragraph 1 of Article 52 of this Code, is obliged to notify the employee in writing of the termination of the employment contract not less than one month to go before it, unless a longer period of notice is provided in the collective contracts. With the written consent of the employee, the termination of the employment contract may be made before the expiry of the notice period.

It is not permitted to terminate an employment contract with employees until they reach the retirement age established by the Law of the Republic of Kazakhstan "On Pensions in the Republic of Kazakhstan", which is less than two years, on the grounds provided for by subparagraphs 2) and 4) of paragraph 1 of Article 52 of this Code, without a positive decision of the commission, created from an equal number of representatives from the employer and employees.

2. If the employment contract is terminated on the basis provided for by subparagraph 3) of paragraph 1 of Article 52 of this Code, the employer is obliged to notify employees in writing about termination of the employment contract fifteen working days to go before it, unless a longer period of notice is provided in the collective contract. By agreement of the parties, the

notice period may be replaced by payment of wages proportional to the unspent term. In the notification, the employer is obliged to indicate the reasons that served as the basis for termination of the employment contract.

Termination of an employment contract for this reason is possible provided that the following conditions are met simultaneously:

1) closure of the structural unit (shop, site);

2) absence of possibility of transferring the employee to another job;

3) a written notification of employees' representatives not less than one month to go before it, specifying the reasons that served as the basis for termination of the employment contract (the existence of a direct link between the economic changes in the employer and the need to terminate the employment contract).

3. Termination of an employment contract on the basis provided for by subparagraph 4) of paragraph 1 of Article 52 of this Code should be based on the decision of the attestation commission, which must include a representative of employees, unless otherwise stipulated by the laws of the Republic of Kazakhstan.

The procedure, conditions and frequency of attestation of employees are determined by the collective contract or the act of the employer.

4. Termination of an employment contract on the basis provided for by subparagraph 5) of paragraph 1 of Article 52 of this Code should be based on the decision of the examination commission, set up in the manner established by the legislation of the Republic of Kazakhstan.

5. In order to terminate an employment contract on the basis provided for in subparagraph 6) of paragraph 1 of Article 52 of this Code, the non-compliance of the employee with the position held or the work performed due to the state of health that prevents continuation of this work must be confirmed by a medical certificate in the manner established by the legislation of the Republic of Kazakhstan.

6. Termination of the employment contract on the grounds provided for by subparagraphs 8), 9), 10), 11), 12), 13), 14), 15), 16), 17) and 18) of paragraph 1 of Article 52 of this Code shall be carried out in compliance with the procedure for applying the disciplinary sanction provided for in Article 65, and the requirements of Article 66 of this Code.

7. Termination of the employment contract on the grounds provided for by subparagraphs 9) and 10) of paragraph 1 of Article 52 of this Code, must be confirmed by a medical certificate.

The decision to send an employee to a medical examination is made by a person authorized by the employer. In the event of an employee refusing to undergo a medical examination, an appropriate act is drawn up.

8. Termination of an employment contract on the basis provided for by subparagraph 20) of paragraph 1 of Article 52 of this Code is allowed after the employee presents a temporary disability certificate.

9. Termination of an employment contract on the basis provided for in subparagraph 24) of paragraph 1 of Article 52 of this Code is allowed upon the employee's reaching the retirement age established by paragraph 1 of Article 11 of the Law of the Republic of Kazakhstan "On Pensions in the Republic of Kazakhstan", with notification to the employee not less than one month prior to the date of termination of the employment contract, with payment of compensation in the amount determined by the labor, collective contracts and (or) the employer's act.

10. Termination of an employment contract on the basis provided for by subparagraph 25) of paragraph 1 of Article 52 of this Code is allowed if the employee fails to provide information on the reasons for the absence within ten calendar days from the date the employer sends the act of absence to the employee with a notification.

Footnote. Article 53 as amended by the Law of the Republic of Kazakhstan dated 06.04.2016 № 483-V (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

#### **Article 54. Limitation of possibility of termination of an employment contract at the initiative of the employer**

1. It is not permitted to terminate an employment contract at the employer's initiative during the period of temporary disability and the employee's stay on leave, except for the cases provided for by subparagraphs 1), 18), 20) and 23) of paragraph 1 of Article 52 of this Code.

2. Termination of the employment contract at the initiative of the employer on the grounds provided for by subparagraphs 2) and 3) of paragraph 1 of Article 52 of this Code is not allowed with pregnant women who provided the employer with a certificate of pregnancy, women with children under the age of three, single mothers, raising a child under the age of fourteen (a disabled child under the age of eighteen), other persons raising this category of children without a mother.

#### **Article 55. Ground and procedure for termination of an employment contract in connection with transfer of an employee to another legal entity**

1. The employment contract with the employee is terminated due to his transfer to another legal entity:

1) more than fifty percent of shares (participatory interest) of which directly or indirectly belong to the employer with whom the employment contract terminates;

2) who directly or indirectly owns more than fifty percent of the shares (participatory interest) of the employer with whom the employment contract terminates;

3) more than fifty percent of the shares (participatory interest) of the said legal entity and the employer with whom the employment contract terminates, belong to one legal entity.

2. The grounds for termination of the employment contract are a written application of the employee and a written confirmation of the employment from another legal entity. The date of termination of the employment contract is determined by agreement of the parties.

#### **Article 56. Procedure for termination of an employment contract at the initiative of the employee**

1. An employee has the right, at his own initiative, to terminate an employment contract by notifying the employer in writing at least one month to go before it, except for the cases provided for in paragraph 3 of this article. In the employment contract, it is allowed to establish a longer period for the employee to notify the employer about termination of the employment contract.

2. An employment contract at the initiative of an employee may be terminated before the expiry of the notice period provided for in paragraph 1 of this article, with the written consent of the employer.

3. The employee has the right to notify the employer in writing about the failure of the employer to comply with the terms of the employment contract. If after the expiry of the seven-day period from the date of the written notification the failure to fulfill the terms of the employment contract by the employer continues, the employee has the right to terminate the employment contract by notifying the employer in writing not later than three working days to go before it.

4. During the period of notice provided for in this article, a notification may be withdrawn by agreement of the parties.

5. After the expiry of the notice period specified in this article, the employee has the right to stop work, except for cases of non-completion of the acceptance / transfer of the employer's property (documentation) through the fault of materially responsible persons. The day of termination of the employment contract with materially responsible employees is the day of completion of the acceptance and transfer of the employer's property (documentation).

#### **Article 57. Grounds for termination of employment contract for circumstances beyond the control of the parties**

1. The employment contract is subject to termination for the following circumstances beyond the control of the parties:

1) when the local executive bodies withdraw their permission to attract foreign labor or the expiry of the residence permit;

2) upon entry into legal force of a court verdict by which an employee or an employer - an individual - is sentenced to a punishment excluding the possibility of continuing labor relations;

3) in the event of the death of an employee or an employer - an individual, as well as in case of declaring an employee or an employer - individual dead or recognizing as missing by the court;

4) in case the court recognizes the employee as incapable or incapacitated, due to which the employee does not have the opportunity to continue employment relationship;

5) in case of restoration of an employee at work who previously performed this work;

6) upon admission of an employee to military service under a contract, service to law enforcement and special state bodies from the day the employee submits the relevant document not later than three days.

2. The date of termination of the employment contract on the grounds specified in subparagraphs 2), 3) and 4) of paragraph 1 of this article is the date of entry into legal force of the sentence or decision of the court, the date of death of the employee or employer - an individual.

Footnote. Article 57 as amended by the Article 204 of the Labour code of the Republic of Kazakhstan dated 23.11.2015 № 414-V (shall be enforced from 01.01.2017); as amended by the Law of the Republic of Kazakhstan dated 13.06.2017 № 69-VI (shall be enforced upon expiry of ten calendar days after the day its first official publication).

### **Article 58. Grounds for termination of employment contract when the employee refuses to continue the employment relationship**

1. An employment contract with an employee is subject to termination if the employee refuses to continue employment relationships in the following cases:

1) the employee's refusal to transfer to another locality together with the employer;

2) the employee's refusal to continue working in connection with changes in working conditions;

3) the employee's refusal to temporary transfer to another job due to his state of health when he gets an industrial injury, occupational disease or other health damage that is not related to production in connection with performance of his duties.

2. Termination of the employment contract is allowed with a written refusal of the employee to continue the employment relationship or in the presence of an act on the absence of a written refusal of the employee.

3. Termination of the employment contract is not allowed on the grounds specified in paragraph 1 of this article during the period of temporary disability of the employee (including maternity leave) and a leave.

### **Article 59. Procedure for termination of an employment contract in connection with transfer of an employee to an elective work (position) or appointment to a position**

An employment contract with an employee is terminated due to his / her transfer to an elective work (position) or appointment to a position, if the laws of the Republic of Kazakhstan prohibit holding of other paid positions for the persons holding such positions.

The grounds are the notification by the employee of the employer and the act of election or appointment of the employee to work (position).

### **Article 60. Grounds for termination of employment contract due to violation of terms of employment contract**

The employment contract is subject to termination due to violation of the terms of the employment contract, if this violation excludes the possibility of continuing labor relations in cases of:

- 1) conclusion of an employment contract for performance of work that is contraindicated to the employee for health reasons on the basis of a medical report;
- 2) conclusion of an employment contract for performance of work in violation of an effective sentence or court order, by which a person is deprived of the right to hold certain positions or engage in certain activities;
- 3) conclusion of an employment contract with foreigners and stateless persons without obtaining qualification certificates in accordance with the established procedure for independent employment or permission to employ foreign labor or without compliance with restrictions or exemptions established by the laws of the Republic of Kazakhstan;
- 4) conclusion of an employment contract with a foreign employee of a state agency with violation of the requirements established by normative legal acts of the Republic of Kazakhstan;
- 5) conclusion of an employment contract with the persons specified in paragraph 2 of Article 26 of this Code;
- 6) in other cases provided for by this Code, laws of the Republic of Kazakhstan and other normative legal acts of the Republic of Kazakhstan.

Footnote. Article 60 as amended by the Article 204 of the Labour code of the Republic of Kazakhstan dated 23.11.2015 № 414-V (shall be enforced from 01.01.2017).

### **Article 61. Documentation of employment contract termination**

1. Termination of the employment contract is documented by the employer's act, with the exception of termination of the employment contract in the event of death (declaring by the court

as dead or recognition as missing) of the employer- individual and termination of the employment contract with local workers.

2. The employer's act must indicate the grounds for termination of the employment contract in accordance with this Code.

3. A copy of the employer's act on termination of the employment contract is handed to the employee or sent to him by letter with a notification within three working days from the date of issuing the employer's act.

#### **Article 62. Issuance of documents confirming professional experience, as well as other documents related to employment**

1. On the day of termination of the employment contract, the employer must issue a document confirming the employee's work activity.

2. At the request of the employee (including the former), the employer must, within five working days from the date of the application, issue a certificate indicating the specialty (qualification, position), period of work and salary, a recommendation, containing information on qualifications of the employee and his attitude to work, as well as other documents provided for by this Code.

3. In the event of liquidation, bankruptcy of the employer - legal entity, termination of the activity of the employer - individual, the employer is obliged, in the presence of debt to the employee, to issue a certificate of the amount of the arrears in wages and other payments, properly documented.

### **CHAPTER 5. WORK REGULATIONS. LABOR DISCIPLINE**

#### **Article 63. Labor regulations**

1. The labor regulations are approved by the employer.

2. The labor regulations establish working hours and rest periods for employees, conditions for ensuring labor discipline, and other issues of regulating labor relations.

#### **Article 64. Disciplinary sanctions**

1. An employer has the right to apply the following types of disciplinary sanctions for committing a disciplinary offense by an employee:

1) a remark;

2) a reprimand;

3) a severe reprimand;

4) termination of the employment contract at the initiative of the employer on the grounds provided for by subparagraphs 8), 9), 10), 11), 12), 13), 14), 15), 16), 17) and 18) of paragraph 1 of Article 52 of this Code.

2. The use of disciplinary sanctions not provided for by this Code and other laws of the Republic of Kazakhstan is not allowed.

### **Article 65. Procedure for applying disciplinary sanctions**

1. A disciplinary sanction is imposed by the employer by issuing the employer's act.

2. Before applying a disciplinary sanction, the employer must request a written explanation from the employee. If, after two working days, a written explanation is not provided by the employee, a corresponding act is drawn up.

An employee's failure to provide an explanation is not an obstacle to application of a disciplinary sanction.

3. For each disciplinary offense, only one disciplinary sanction may be applied against the employee.

4. The employer's act on imposing a disciplinary sanction on an employee may not be issued in the period of:

- 1) temporary disability of the employee;
- 2) the release of the employee from work for performance of the state or public duties;
- 3) finding an employee on vacation or rotational vacation;
- 4) finding an employee on a business trip.

5. The act on imposing a disciplinary sanction shall be declared to the employee subjected to disciplinary sanction against the signature within three working days from the date of its publication. In the event of an employee refusing to confirm familiarization with the employer's act with his / her signature, an appropriate entry in the act on imposing a disciplinary sanction is made.

If it is not possible to familiarize the employee personally with the employer's act on imposing a disciplinary sanction, the employer is obliged to send a copy of the act of the disciplinary sanction to the employee with a notification within three working days from the date of issuing the employer's act.

### **Article 66. Term of imposing and duration of disciplinary sanction**



1. Disciplinary sanction for an employee is imposed directly upon revelation of a disciplinary offense, but not later than one month from the date of its detection, with the exception of cases stipulated by paragraph 4 of Article 65 of this Code and other laws of the Republic of Kazakhstan.

In cases stipulated in Article 176 of this Code, disciplinary sanctions shall be imposed not later than one month after the entry into legal force of the court decision on recognizing the strike as illegal.

2. Disciplinary sanction may not be applied later than six months from the day of committing a disciplinary offense, and in cases established by the laws of the Republic of Kazakhstan, or revelation of a disciplinary offense based on the results of an audit or an audit of the financial and economic activities of the employer - later than one year from the date of the disciplinary offense committed by the employee. The specified term does not include the time for criminal proceedings.

3. Duration of imposition of disciplinary sanction is suspended for the period of absence of the employee at work in connection with temporary disability, release from work for performance of state or public duties, being on leave, business trip or rotational leave.

4. The period of disciplinary sanction may not exceed six months from the date of its application, except for termination of the employment contract on the grounds provided for by this Code.

5. An employer who has imposed a disciplinary sanction on an employee has the right to remove it ahead of schedule by issuing an employer's act.

## **CHAPTER 6. WORKING HOURS**

### **Article 67. Working hours and its types**

1. Periods of preparatory-final work (obtaining a task-order, materials, tools, acquaintance with equipment, documentation, preparation and cleaning of the workplace, delivery of finished products, etc.), breaks provided for by technology, labor organization; labor safety and protection regulations; the time of presence or waiting of work in the workplace, when the employee does not have free time; duty on holidays and weekends; duty at home, as well as other periods that, in accordance with labor, collective contracts, acts of the employer or normative legal acts of the Republic of Kazakhstan, relate to working hours.

2. Working hours can be of normal duration, reduced duration and incomplete.

### **Article 68. Normal duration of working hours**

1. Normal duration of working hours should not exceed 40 hours per week.

2. An employment contract may provide for shorter working hours with payment for normal duration of working hours.

3. The total duration of daily work at the place of main work and part-time work should not exceed the norm of duration of daily work, established by paragraph 4 of Article 71 of this Code, for more than 4 hours.

#### **Article 69. Reduced duration of working hours for certain categories of employees**

1. For employees who have not reached the age of eighteen, the reduced working hours are established:

- 1) for workers aged from fourteen to sixteen - not more than 24 hours per week;
- 2) for workers aged from sixteen to eighteen - not more than 36 hours per week.

2. For workers engaged in heavy work, work with harmful and (or) dangerous working conditions, the reduced working hours are established - not more than 36 hours per week according to the List of industries, workshops, professions and positions, the list of heavy work, work with harmful and (or) dangerous working conditions.

The reduced working hours set by this paragraph apply to workers whose work in heavy, harmful and (or) dangerous conditions is confirmed by the results of attestation of production facilities for working conditions.

In the event that the employer fails to certify the production facilities for working conditions, as well as for workplaces that are not subject to certification, the reduced working hours are provided in full according to the List of industries, workshops, professions and positions, the list of heavy work, work with harmful and (or) dangerous working conditions.

3. Employees with disabilities of the first and second category shall be provided with reduced working hours - not more than 36 hours per week.

Duration of the daily work (working shift) of disabled workers of the first and second category may not exceed seven hours.

4. Payment for labor of employees when establishing their reduced working hours is made in accordance with this Code.

#### **Article 70. Incomplete working hours**

1. When concluding an employment contract, as well as in the process of labor relations, an employee may be provided with the incomplete working hours by a written agreement between the employee and the employer.

Incomplete working hours is considered to be the time that is less than the normal duration established by this Code, including:

- 1) part-time work, that is, a reduction in the norm of duration of daily work (working shift);
- 2) part-time work week, that is, a reduction in the number of working days in the working week;
- 3) simultaneous reduction of the norm of the duration of daily work (working shift) and reduction of the number of working days in the working week.

2. Part-time work does not entail restrictions on duration of paid annual leave, calculation of length of service and other rights in the labor area established by this Code, labor, collective contracts, agreements.

3. The employer, upon the written application of a pregnant woman, one of the parents (adoptive parent), having a child (children) under the age of three, sets the part-time working time.

#### **Article 71. Working pattern**

1. A five-day working week is set for employees with two days off. With a five-day working week, the duration of daily work (shift) is determined by the employer's act taking into account the specifics of the work and with the observance of the established duration of the working week.

2. In organizations where introduction of a five-day workweek is inappropriate due to nature of production and working conditions, a six-day workweek is established with one day off.

3. A five-day or six-day working week shall be established by the employer in accordance with the terms of the labor and collective contracts or the employer's act.

4. Duration of daily work may not exceed 8 hours, except for cases stipulated by this Code and other laws of the Republic of Kazakhstan

5. Duration of daily work (working shift), the time of commencement and completion of daily work (working shift), the time of breaks in work are determined in accordance with the conditions established by labor rules, labor and collective contracts.

6. For creative workers of professional organizations of art and cultural entertainment, mass median employee s, athletes, coaches, a different duration of daily work (working shift) may be established in accordance with the labor legislation of the Republic of Kazakhstan, acts of the employer, collective or employment contracts.

#### **Article 72. Division of daily work (working shift) into parts**

1. Division of daily work (working shift) into parts is allowed:

1) at works with different intensity of work;

2) at the initiative of the employee, if this is due to his social conditions and other personal needs.

2. When dividing daily work (working shift) into parts, the total working time should not exceed the established duration of daily work (working shift).

3. Types of work, where division of daily work (working shift) into parts is made, the number and duration of breaks in work, as well as the types and amounts of compensation payments to employees for working with such conditions are determined by labor, collective contracts.

Breaks associated with division of daily work (working shift) into parts are provided for employees' rest and do not apply to working hours.

### **Article 73. Shiftwork**

1. Shift work may be established in cases where duration of production process exceeds the permissible duration of daily work.

2. With shift work, the duration of a shift, transition from one shift to another, is established by shift schedules.

3. Shift schedules are brought to the attention of employees by the employer not later than ten calendar days before they are put into effect.

4. Involvement of an employee to work for two shifts in a row is prohibited.

### **Article 74. Flexible work schedule**

1. In order to combine the social and other personal needs of workers with the interests of production, a flexible working schedule may be established for workers.

2. In the flexible work schedule mode:

1) fixed working hours;

2) flexible (variable) working hours, during which the employee has the right, at his discretion, to perform labor duties;

3) the record period

are established.

3. The record period for flexible working schedule is the period within which the average duration of working hours established for this category of employees should be observed.

4. The record period for flexible working hours may not exceed six months.

5. Duration of daily work (working shift) and (or) weekly work in flexible working schedule may be more or less than the norm of daily and / or weekly working hours.

6. Duration of fixed work schedule, flexible (variable) working hours, record period in the flexible work schedule are established by the employer's act, labor or collective contracts.

#### **Article 75. Summarized recording of working hours**

1. Summarized recording of working hours is applied in continuously operating industries, workshops, sections and in some types of work, where, according to the conditions of production (work), the daily or weekly working hours established for this category of workers may not be observed.

2. The recording period for the summarized recording of working hours is the period within which the average daily and / or weekly working hours for the given category of employees must be observed.

3. The recording period for the summarized recording of working hours can be any calendar period, but not more than one year or the period of performance of a certain work.

4. In establishing the summarized recording of working hours, it is mandatory to observe the duration of the employee's rest between the end of the job and its beginning on the next working day (working shift).

5. The procedure for work in the summarized recording of working hours, the category of employees for whom a summarized recording of working hours is established, are determined by the collective contract or the employer's act.

6. Attraction of employees who have not reached the age of eighteen, to work with application of the summarized recording of working hours is not allowed.

7. The use of the summarized recording of working hours for pregnant women is not allowed if a working day (working shift) is longer than eight hours.

8. It is not allowed to apply the summarized recording of working hours for disabled workers of the first category.

The summarized recording of working hours may not be established for disabled workers of the second and third category, if such a regime is banned for him on the basis of a conclusion of the expert occupational pathology committee.

## **Article 76. Night work**

1. The night time is considered to be the time from 22.00 to 06.00.

2. They are not allowed to work at night:

employees under the age of eighteen;

pregnant women who provided the employer with a certificate of pregnancy.

3. Involvement of disabled workers in night work is allowed only with their written consent, provided that such work is not prohibited for them for health reasons in accordance with medical opinion.

4. The employer shall not be entitled to employ the following workers for night work without a written consent:

1) women with children under the age of seven and other persons raising children under the age of seven without a mother;

2) employees who raise children with disabilities up to sixteen years of age.

## **Article 77. Overtime work**

1. Attraction to overtime work is allowed only with the written consent of the employee, except for the cases provided for in paragraph 2 of this article.

2. Overtime work without the consent of the employee is allowed in the following cases:

1) in performance of works necessary for the defense of the country, as well as to prevent emergencies, natural disasters or industrial accidents, or immediate elimination of their consequences;

2) to eliminate other circumstances that break the normal functioning of water supply, gas supply, heating supply, energy supply and other life support systems;

3) to continue the work if the replaced employee does not show up, if the work does not allow a break, with immediate measures taken to replace him by the other employee;

4) to provide emergency and urgent assistance to citizens who are threatened with loss of health or death.

3. The following workers are not allowed to work overtime:

1) pregnant women who have provided the employer with a certificate of pregnancy;

- 2) under the age of eighteen;
- 3) people with disabilities.

#### **Article 78. Maximum number of overtime works**

1. Overtime work should not exceed two hours per day for each employee, and one hour for heavy work, work with harmful and (or) dangerous working conditions.
2. Total duration of overtime work should not exceed twelve hours per month and one hundred and twenty hours per year.
3. Limitation of the maximum number of overtime work does not apply to the works in the cases provided for by subparagraphs 1) and 4) of paragraph 2 of Article 77 of this Code.

#### **Article 79. Procedure for recording of working hours**

1. The employer is obliged to keep a record of the working hours actually worked by the employee.
2. The time worked and unworked by the employee is subject to be recorded. At that, the overtime work, night work, weekends, holidays, days of business trips are separately taken into account.
3. The form and procedure for keeping records of working hours are determined by the act of the employer.
4. In cases when during the working hours of the employee the periods of work performed out of the workplace are included or their performance may not be recorded by the employer within a specific time, these periods are noted in the records of working hours as performance of the scope of work established by the employment contract.

### **CHAPTER 7. REST TIME**

#### **Article 80. Types of rest time**

The types of rest time are:

- 1) breaks during a working day (working shift):  
break for rest and eating;  
inter-shift and special breaks;
- 2) daily (inter-shift) rest;

- 3) days off (rotational rest);
- 4) holidays;
- 5) leave.

### **Article 81. Break for rest and eating**

1. During the daily work (working shift), the employee must be given one break for rest and eating for at least half an hour.

2. The time for a break for rest and eating, its duration is established by the rules of the labor schedule, labor, collective contracts.

3. The break time for rest and eating is not included in the working hours. At works where a break is impossible under the production conditions, the employer must provide the employee with the opportunity to rest and eat during working hours in a specially equipped place. The list of such works, the order and place for rest and eating are set by the collective contract or acts of the employer.

### **Article 82. Inter-shift and special breaks**

1. In certain types of work, employees are given inter-shift breaks due to technology and organization of production and labor, which are included in the working hours. The types of these works, duration and procedure for providing such breaks are determined by the collective contract or acts of the employer.

2. Workers who work in the cold or hot seasons in the open air, in closed unheated rooms, as well as those engaged in loading and unloading works, have special breaks for heating or cooling and rest, which are included in the working hours. The employer is obliged to equip premises for heating, cooling and rest of workers.

3. Working women with children under the age of one and a half years, fathers (adoptive parents) raising children under the age of one and a half years without a mother, are given additional breaks for feeding a child (children) at least every three hours of work of the following duration:

- 1) having one child, - each break of at least thirty minutes;
- 2) having two or more children, - each break for at least one hour.

4. Breaks for feeding a child (children) at the request of the employee specified in paragraph 3 of this article, are added to a break for rest and eating or the summarized breaks are provided at the beginning or the end of the working day (shift).



5. Breaks for feeding a child (children) are included in the working hours. During the breaks, women, fathers, adoptive parents retain the average wage.

### **Article 83. Duration of daily (inter-shift) rest**

Duration of a daily (inter-shift) rest of an employee between the end of work and its beginning next day (working shift) may not be less than twelve hours.

### **Article 84. Weekend**

1. Weekly employees are given weekends.
2. In a five-day workweek, employees are given two days off per week, and in a six-day workweek - one day off.
3. In a five-day and six-day working week, a general day off is Sunday. The second day off for a five-day workweek is established by a collective contract or labor rules.
4. Employees (a group of employees), employed in continuous productions or production, whose work may not be stopped on weekends due to production and technical conditions or due to the need for constant continuous service to the population, as well as working shifts, the days off are provided on different days of the week alternately according to shift schedules (watch schedules).
5. The first day of the Kurban-ait, celebrated according to the Muslim calendar, January 7 - Orthodox Christmas are the days off, regardless of the operating modes and shift schedules used (watch schedules).
6. An employee, being on a business trip, enjoys the days off in accordance with the rules of the employer's work schedule to which he is sent.

### **Article 85. Work on weekends and holidays**

1. In order to attract employees working on a shift schedule or on a rotational basis according to the watch schedule, to work on holidays, as well as on weekends stipulated in paragraph 5 of Article 84 of this Code, the written consent of employees and the issuance of the employer's act are not required.

Work on weekends and holidays is allowed with the written consent of the employee or at his request on the basis of the employer's act, with the exception of cases stipulated by Article 86 of this Code, and employees working on a shift schedule (watch schedules).

2. For work on weekends and holidays, the employee, at his request, is given another day of rest or payment is made in the amount specified in Article 109 of this Code.

3. For a rational use of working hours during the holidays, as well as on weekends provided for by paragraph 5 of Article 84 of this Code, the Government of the Republic of Kazakhstan has the right to postpone the weekend on other working days.

4. It is prohibited to attract pregnant women who have provided a pregnancy certificate to their employer for work on weekends and holidays.

#### **Article 86. Exceptional cases of involvement in work on weekends and holidays without the consent of the employee**

Attraction to work on weekends and holidays without the consent of the employee is allowed in the following cases for:

- 1) prevention of emergencies, natural disasters or industrial accidents, or immediate elimination of their consequences;
- 2) prevention and investigation of accidents related to work, loss of or damage to property;
- 3) performance of urgent, unforeseen work, the urgent fulfillment of which influence the further normal work of the organization as a whole or its individual units.

#### **Article 87. Types of leave**

1. Employees are given the following types of leave:

- 1) paid annual labor leave;
- 2) social leave.

2. Paid annual leave is intended for rest of an employee, restoring health, improving health and other personal needs of an employee and is provided for a certain number of calendar days with preservation of the place of work (position) and average salary.

3. Employees are provided with the following types of paid annual labor leave:

- 1) the main paid annual labor leave;
- 2) additional paid annual labor leave.

4. Social leave is understood to be a release of an employee from work for a certain period in order to create favorable conditions for motherhood, caring for children, receiving education without discontinuing work and for other social purposes.

5. Employees are provided with the following types of social leave:

- 1) leave without pay;

2) study leave;

3) leave in connection with pregnancy and the birth of a child (children), the adoption of a newborn child (children);

4) leave without pay to care for a child until he reaches the age of three.

The period of being on social leave is included in the length of service, unless otherwise stipulated by the laws of the Republic of Kazakhstan.

6. Granting leave is issued by the act of the employer.

### **Article 88. Duration of the main paid annual leave**

The main paid annual leave for employees is given for a period of twenty-four calendar days, unless more days are provided for by this Code, other normative legal acts of the Republic of Kazakhstan, labor, collective contracts and acts of the employer.

### **Article 89. Additional paid annual leave**

1. Additional paid annual leave is granted:

1) to workers engaged in heavy work, work with harmful and (or) dangerous working conditions, lasting not less than six calendar days according to the List of industries, workshops, professions and positions, the list of heavy work, work with harmful and (or) dangerous working conditions.

Additional paid annual leave is granted to employees whose work in difficult, harmful and (or) dangerous conditions is confirmed by the results of attestation of production facilities for working conditions.

In the event that the employer fails to certify production facilities for working conditions, and also for workplaces that are not subject to certification, additional paid annual leave is provided in full according to the List of industries, workshops, professions and positions, the list of heavy work, work with harmful and ( or) dangerous working conditions;

2) the disabled of the first and second categories for a period of not less than six calendar days.

2. Other categories of employees may be granted additional annual leave and its duration may be established by the laws of the Republic of Kazakhstan.

3. Labor, collective agreements may establish additional annual paid leave of encouragement nature for long-term continuous work, performance of important, complex, urgent work, as well as work of a different nature.

## **Article 90. Calculation of duration of paid annual labor leave**

1. Duration of paid annual labor leave is calculated in calendar days, excluding holidays, which fall on the days of paid annual leave, regardless of the operating modes and shift schedules.

2. When calculating the total duration of the paid annual leave, additional paid annual leave shall be added together with the main paid annual labor leave.

## **Article 91. Calculation of the length of service for provision of paid annual leave**

The length of service for provision of paid annual leave includes:

- 1) actually worked time;
- 2) the time when the employee did not actually work, but he retained his place of work (position) and wages in full or in part;
- 3) the time when the employee did not actually work due to temporary disability, including the time spent on maternity leave;
- 4) the time when the employee did not actually work before re-employment.

## **Article 92. Definition of period and procedure for provision of paid annual leave**

1. A paid annual leave for the employee for the first and subsequent years of work by agreement of the parties is granted at any time of the working year.

2. The working year is twelve calendar months, calculated from the first day of the employee's work.

3. By agreement between the employee and the employer, the annual paid leave can be divided into parts. At the same time, one part of the paid annual leave must be not less than two calendar weeks of the duration of the leave stipulated in the employee's employment contract.

4. Payment for annual leave shall be made not later than three working days prior to the commencement of the leave, and in the event of granting the labor leave outside the vacation schedule - not later than three working days from the date of its grant.

5. Employees who work under an employment contract for part-time job receive the paid annual leave simultaneously with the leave for their main work.

If the duration of annual paid labor leave under an employment contract for part-time work is less than the duration of leave for main work, the employer, at the request of a part-time employee, grants him an unpaid leave for the days that make up a difference in duration of the leaves.

6. Granting leave, transfer or withdrawal from a paid annual labor leave are documented by the act of the employer.

### **Article 93. Order of providing paid annual labor leave**

1. The order of providing a paid annual labor leave to employees is determined annually in accordance with the leave schedule approved by the employer taking into account the opinion of employees, or is established outside the leave schedule by agreement of the parties.

2. In case of changing the leave schedule in connection with the production necessity, the employer is obliged to notify the employee about this not less than two weeks to go before the beginning of the labor leave.

### **Article 94. Cases and procedure for postponing the paid annual labor leave**

1. The annual paid leave shall be postponed in full or in its part in the following cases:

temporary disability of the employee;

at the time of maternity leave.

2. The annual paid leave (part of it) in cases provided for by paragraph 1 of this article shall be postponed at the request of the employee while on a paid annual leave. The postponed labor leave by agreement of the parties may be added to the leave for the next working year or provided at the request of the employee separately in the current working year.

3. It is forbidden not to grant an unused paid annual leave or a part thereof for two consecutive years.

### **Article 95. Recall from a paid annual leave**

1. A paid annual leave may be interrupted by the employer in case of production necessity only with the written consent of the employee.

2. A part of the paid annual leave, unused in connection with the recall, by agreement of the parties to the employment contract, is granted during the current working year or next working year at any time or is added to the paid annual leave for the next working year.

3. If an employee is recalled from a paid annual leave, instead of granting an unused part of the leave at another time, by agreement between the employee and the employer, the employee receives a compensation for the days of the unused part of the annual paid leave.

4. It is not allowed to recall an employee from a paid annual leave, who has not reached the age of eighteen, pregnant women and workers engaged in heavy work, work with harmful and (or) dangerous working conditions.

## **Article 96. Realization of the right to the paid annual labor leave and payment of compensation upon termination of the employment contract**

1. A paid annual labor leave with subsequent termination of an employment contract in connection with expiration of its term may be granted in the case when the time of leave is fully or partially outside the term of the employment contract. The day of termination of the employment contract due to the expiry of its term is considered to be the last day of the paid annual leave.

2. Upon termination of the employment contract, an employee who has not used or not fully used an annual paid labor leave (annual leave) shall be compensated for the unused days of the paid annual labor leave (annual leave).

## **Article 97. Unpaid leave**

1. By agreement of the parties to the employment contract on the basis of an employee's application, he may be granted an unpaid leave.

2. Duration of an unpaid leave is determined by agreement between the employee and the employer.

3. On the basis of notification of the employee, the employer is obliged to grant an unpaid leave for up to five calendar days in case of:

- 1) registration of marriage;
- 2) the birth of a child;
- 3) death of close relatives;
- 4) in other cases provided for by labor, collective contracts.

## **Article 98. Study leave**

1. Workers who study in educational organizations are provided with study leave for preparing and passing exams and examinations, performing laboratory work, preparing and defending the thesis work (project), for passing training programs for the military-trained reserve.

2. Payment for study leave is determined by agreements, collective and employment contracts, training contracts.

3. The employer grants study leave with preservation of the place of work (position) for the employees, sent for training, internship abroad under the international scholarship Bolashak.

## **Article 99. Leave for pregnancy and birth of a child (children), adoption of a newborn child (children)**

1. Pregnant women, women who gave birth to a child (children), women (men) who adopted a newborn child (children) are granted the following leaves in connection with the birth of a child:

- 1) a maternity leave;
- 2) a leave for employees who adopted a newborn child (children);
- 3) an unpaid leave to care for a child until he reaches the age of three.

2. A pregnant woman from the date indicated in the temporary disablement certificate, giving the right to maternity leave, prepares it by presenting a temporary disability certificate, confirming the right to this type of leave. Maternity leave is granted for a period of seventy calendar days before the birth and fifty-six (in the case of complicated births or the birth of two or more children - seventy) calendar days after birth, unless otherwise stipulated by the laws of the Republic of Kazakhstan.

Calculation of leaves is made in aggregate, and the leave is granted to the woman completely regardless of the number of days actually used before the birth, and the duration of work for the employer.

3. Employees who adopted a newborn child (children) shall be granted (to one of their parents) a leave for the period from the day of adoption and until expiration of fifty-six days from the date of the birth of the child.

4. The employer pays for maternity leave, leave for employees who adopted a newborn child (children), while maintaining the average wage, if provided for by the terms of the labor and (or) collective contract, by the employer's act, with the deduction of the amount of social allowance in the event of loss of income due to pregnancy and childbirth, adoption of a newborn child (children), carried out in accordance with the legislation of the Republic of Kazakhstan on compulsory social insurance.

## **Article 100. Unpaid leave for child care until he reaches the age of three**

1. The employer is obliged to grant an unpaid leave to the worker for childcare until he reaches the age of three:

- 1) at the choice of the parents - the mother or the father of the child;
- 2) the parent, raising the child alone;
- 3) to another relative actually raising a child who has been left without parental care, or a guardian;

4) the employee who adopted a newborn child (children).

2. An unpaid leave for child care until the age of three is granted on the basis of a written application of the employee with indication of its duration and provision of a birth certificate or other document confirming the birth of the child.

The employee can use the leave to take care of the child until he reaches the age of three years in full or in parts.

3. For the period of an unpaid leave for the care of the child until he reaches the age of three, the employee retains his place of work (position).

4. In the case of entering the work before expiration of an unpaid leave to care for the child until the age of three, the employee must notify the employer of his intention a month before the start of work.

## **CHAPTER 8. LABOR STANDARDIZATION AND REMUNERATION**

### **Article 101. Labor standardization**

1. The labor standards (time, performance, labor intensity, maintenance, numerical strength) are the measure of labor costs and are established for an employee of appropriate qualifications in accordance with the level of equipment, technology, organization of production and labor.

2. Development, introduction, replacement and revision of labor standards are carried out by the employer in the manner established by the authorized state body for labor.

3. Labor standards are subject to mandatory replacement in the process of attestation and rationalization of workplaces, introduction of new technology, equipment and organizational and technical measures that ensure growth of labor productivity.

Achievement of a high level of production (provision of services) by individual employees through the use of new methods of work and improvement of workplaces at their own initiative is not a basis for reviewing the previously established labor standards.

4. Employees are notified of introduction of new labor standards by the employer not later than one month prior to it.

5. When developing labor standards, the following should be ensured:

1) quality of labor standards, their optimal approximation to necessary labor costs;

2) establishment of similar labor standards for the same work performed in similar organizational and technical conditions;

3) progressive nature of labor standards based on scientific and technological achievements;



4) coverage by the labor standards of those types of work for which it is possible and appropriate to establish the labor standards;

5) technical (scientific) validity of labor standards.

6. The labor standards in the organization, for the services (goods, works) of which the state regulation of tariffs (prices, fee rates) is introduced, are approved by the employer in agreement with the authorized state bodies of the relevant areas of activity and with the authorized state body for labor in accordance with the procedure established by it.

7. Typical norms and labor standards are developed and approved by the employers' industrial associations, uniform and (or) inter-industrial model norms and labor standards for all areas of activity are approved by the National Chamber of Entrepreneurs of the Republic of Kazakhstan in agreement with representatives of employees in accordance with the procedure established by the authorized state body for labor.

8. Qualification requirements for employees and complexity of certain types of work are established on the basis of professional standards, and in their absence - on the basis of the Unified tariff-qualification reference book of jobs and occupations of workers, the Qualification reference book of positions of managers, specialists and other employees, the tariff-qualification characteristics of occupations of workers and standard qualification characteristics of positions of managers, specialists and other employees of organizations.

#### **Article 102. State guarantees in labor remuneration area**

State guarantees for remuneration of employees include:

- 1) the minimum monthly wage;
- 2) the minimum amount of hourly wages;
- 3) payment for overtime work;
- 4) payment for work on holidays and weekends;
- 5) payment for night work;
- 6) limiting the amount of deductions from the employee's salary;
- 7) the procedure and terms of payment of wages.

#### **Article 103. Amount of wages**

1. The amount of the monthly salary of the employee is established differentially, depending on qualification of the employee, complexity, quantity and quality of the work performed, as well as working conditions. The size of the monthly salary is not limited to the maximum size.

The wage is paid to the employee for the time actually worked by him, recorded in the employer's documents on recording the working hours.

2. The amount of the monthly salary of an employee who has completely worked out the working hours that have been determined for this period and has fulfilled the labor standards or labor obligations, may not be lower than the minimum monthly wage established for the relevant fiscal year by the law of the Republic of Kazakhstan on the republican budget.

#### **Article 104. Minimum wage determination**

1. The minimum monthly wage set annually for the relevant financial year by the law of the Republic of Kazakhstan on republican budget should not be lower than the subsistence minimum and does not include surcharges and allowances, compensatory and social benefits, bonuses and other incentive payments and is paid in proportion to the worked time.

2. The minimum amount of the hourly salary of an employee who has fulfilled his labor duties may not be less than the minimum monthly wage divided by the average monthly number of working hours according to the working time balance for the corresponding calendar year.

3. The minimum monthly wage or the monthly wage rate of a first-class employee provided for by the terms of labor, collective contracts and (or) acts of the employer may not be less than the minimum monthly wage established for the relevant fiscal year by the law of the Republic of Kazakhstan on republican budget.

#### **Article 105. Payment for labor of workers engaged in heavy work, work with harmful and (or) dangerous working conditions**

1. Payment for labor of workers engaged in heavy work, work with harmful and (or) dangerous working conditions is established in an increased amount in comparison with payment for labor of workers engaged in work with normal working conditions, by establishing the increased official salaries (rates) or additional payments, the size of which is determined by a collective contract or an employer's act, taking into account the industry coefficients that classify working conditions by the degree of harmfulness and danger determined by the industrial agreement.

2. Payment for labor of workers engaged in heavy work, work with harmful and (or) dangerous working conditions, in an increased amount is carried out according to the List of industries, workshops, professions and positions, the list of heavy work, work with harmful and (or) dangerous working conditions.

3. The labor payment conditions established by this article are provided to workers whose involvement in heavy work, work with harmful and (or) dangerous working conditions is confirmed by the results of attestation of production facilities for working conditions.

In the event that the employer fails to certify the production facilities for labor conditions, and also for workplaces that are not subject to attestation, the wages of workers engaged in

heavy work, work with harmful, dangerous working conditions are made according to the List of industries, workshops, professions and positions, a list of heavy work, work with harmful and (or) dangerous working conditions.

### **Article 106. Hourly wage**

1. Conditions of the employment contract and (or) the employer's act may establish hourly wages for the work actually performed in case of part-time working day or partial load, as well as for temporary or one-time work. With the reduced working hours for certain categories of employees, provided by this Code, hourly wages are established.

2. Remuneration for labor in the summarized recording of working hours is made for the actually worked-out working hours on the shift schedule (watch schedules). At the same time, wages are calculated on hourly tariff rate calculated on the basis of the tariff rate (official salary) and the monthly standard of working hours in accordance with the working time balance for the corresponding calendar year.

### **Article 107. Remuneration system**

1. Salary to an employee is established by an employment contract in accordance with the remuneration systems of the employer.

2. The system of labor remuneration is determined by the terms of labor, collective contracts and (or) acts of the employer.

3. To increase the interest of employees in improving production efficiency and quality of work performed, the employer may introduce bonus schemes and other forms of labor incentives defined by the terms of the collective contract and (or) acts of the employer.

4. The wage system should ensure a share of the basic wage of at least 75 percent in the wages of employees without taking into account one-time incentive payments.

5. Conditions of remuneration determined by agreements, labor, collective contracts and acts of the employer may not be worsened in comparison with the conditions established by this Code and other normative legal acts of the Republic of Kazakhstan.

### **Article 108. Overtime payment**

With time-based pay, overtime work is paid at an increased rate under the terms of the labor or collective contracts and (or) the employer's act, but not lower than one and a half amount based on the daily (hourly) rate of the employee. In case of piecework remuneration, the extra payment for overtime work is made at a rate not less than fifty percent of the established daily (hourly) rate of the employee.

By agreement of the parties, hours of rest are allowed for overtime work at the rate of not less than one hour of rest per one hour of overtime work.

### **Article 109. Payment for work on holidays and weekends**

Payment for work on holidays and weekends is made in an increased amount in accordance with the terms of labor or collective contracts and (or) the employer's act, but not lower than one and a half amount based on the day (hour) rate of the employee.

### **Article 110. Payment for night work**

Every hour of night work is paid in an increased amount according to the terms of the labor or collective contracts and (or) the employer's act, but not lower than in one and a half amount based on the daily (hourly) rate of the employee.

### **Article 111. Payment for labor when combining posts, expanding the service area and performing (replacing) the duties of a temporarily absent employee**

1. Workers performing in the same organization along with their main work, stipulated by the employment contract, the additional work for another or the same position or the duties of a temporarily absent employee without release from their basic work receive an additional payment.

2. Additional work assigned to employees may be carried out through:

1) combination of positions - the employee, along with his main job, as provided by the employment contract (job description), performs additional work for another vacant position;

2) expansion of service areas - the employee, along with his / her main job, as stipulated in the employment contract (job description), performs additional work for a specified duration of a working day (shift);

3) performance (replacement) of the duties of a temporarily absent employee - the employee, along with his / her main job, stipulated by the employment contract (job description), performs additional work for both the other and the same position.

An additional payment to employees for the performance (replacement) of the duties of a temporarily absent employee is not made if the replacement of a temporarily absent employee is included in the duties of a replacement employee.

3. The amount of surcharges for combination of positions, the expansion of the service area or performance (replacement) of the duties of a temporarily absent employee are established by the employer in agreement with the employee on the basis of the volume of work performed.

Footnote. Article 111 as amended by the Law of the Republic of Kazakhstan dated 06.04.2016 № 483-V (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

### **Article 112. Downtime payment**

1. The procedure for documentation of downtime and conditions for payment of downtime for reasons beyond the control of the employer and the employee are determined by the labor and collective contracts and set at a rate not lower than the minimum wage, due to the employer's fault - at a rate of not less than fifty percent of the average wage of the employee.

2. The downtime caused by the employee is not payable.

### **Article 113. Procedure and terms of payment of wages**

1. Salary is established and paid in cash in the national currency of the Republic of Kazakhstan at least once a month not later than the first ten days of the following month. The date of payment of wages is specified in the employment contract. When the day of payment of wages coincides with weekends or holidays, payment is made on the eve of these days.

2. When paying wages, the employer is obliged to notify each employee in written or electronic form on a monthly basis of the components of wages due to him for the relevant period, the amounts and grounds for the deductions made, including information on the deducted and transferred mandatory pension contributions, the amount payable.

3. If the employer does not pay wages in full and within the time limits established by the employment contract, the employer is liable in accordance with the laws of the Republic of Kazakhstan. The employer pays the employee a debt and a penalty for the period of the delay in payment. The penalty amount is calculated on the basis of the official refinancing rate of the National Bank of the Republic of Kazakhstan on the day of fulfillment of the obligation to pay wages and is charged for each delayed calendar day from the next day, when payments should be made, and ends on the day of payment.

4. When the employment contract is terminated, the payment of amounts due to the employee from the employer is made not later than three working days after its termination.

### **Article 114. Calculation of the average salary of an employee**

1. Calculation of the average wage both for a five-day and a six-day workweek is made for actually worked time on the basis of the average daily (hourly) wage for the corresponding period, taking into account the established surcharges and allowances, bonuses and other incentive payments, which are of a permanent nature, provided for by the remuneration system.

2. To calculate the average salary, the calculation period is the twelve calendar months preceding the event, to which the corresponding payment (payment) is related, in accordance with this Code. For employees who have worked less than twelve calendar months, the average wage is calculated for actually worked time.

The collective contract may provide for other periods for calculating the average wage, if this does not worsen the situation of workers.

3. For all cases of calculating the average wage provided for by this Code, the authorized state body for labor establishes a uniform procedure for its calculating.

### **Article 115. Deductions from wages**

1. Deductions from the employee's wages are made by court decision, and also in cases provided for by the laws of the Republic of Kazakhstan and this article of the Code.

2. Deductions from the employee's salary to pay off his debts to the organization in which he works may be made on the basis of an employer's act with a written notification to the employee:

1) for repayment of unspent and timely non-refunded amounts of money issued in connection with a business trip, as well as in case of failure to provide documents confirming expenses related to a business trip;

2) in cases providing compensation to the employer for the costs associated with training the employee, if there is a training contract, in proportion to the unfinished working hours in the early termination of the employment contract;

3) to reimburse the unearned advance paid to the employee against the future wages;

4) in cases of postponing or recall of an employee from an annual paid leave, with the exception of paragraph 3 of article 95 of this Code;

5) in other cases in presence of the written consent of the employee.

3. When deducting from wages on several execution lists, as well as in cases provided for by the laws of the Republic of Kazakhstan and this article of the Code, the amount of monthly deduction may not exceed fifty percent of the wage due to an employee .

## **CHAPTER 9. PROFESSIONAL TRAINING, RETRAINING AND ADVANCED TRAINING**

### **Article 116. Concepts used in this chapter**

The following concepts are used in this chapter:

1) advanced training - a form of vocational training that allows to maintain, expand, deepen and improve previously obtained professional knowledge, skills;

2) dual training - a form of training, combining training in an education organization with mandatory periods of training and practice at the enterprise with provision of jobs and compensation payments for students with equal responsibility of the enterprise, educational institution and student;

3) dual training agreement - a written agreement between the student, the organization that provides the workplace for the training and practice, and the educational institution, which regulates conditions and procedure for passing the production practice;

4) vocational training - a form of vocational training aimed at personality development to obtain new or changed professional skills necessary to perform a certain type of work;

5) retraining - a form of vocational training that allows to master another profession or specialty;

6) training contract - a written agreement between the employer and the trainee on the conditions of vocational training, retraining and advanced training.

### **Article 117. Professional standards and qualifications system**

1. The national qualifications framework consists of a description of general characteristics of professional activity for each qualification level.

The branch qualifications framework classifies requirements for qualification of a specialist in levels depending on complexity of the work performed and the nature of the knowledge, skills and competencies used in the industry.

Professional standard - a standard that defines requirements for the level of qualification and competence, the content, quality and working conditions in a specific area of professional activity.

2. Development, introduction, replacement and revision of professional standards are carried out by the association of employers on the basis of the industrial qualifications framework and approved by the National Chamber of Entrepreneurs of the Republic of Kazakhstan in accordance with the procedure established by the authorized state body for labor.

2-1. Development, approval, replacement and revision of professional standards for services rendered by state legal entities are carried out by the state bodies of the relevant areas of activity in coordination with the authorized state body for labor.

3. Development and revision of the national qualifications framework are carried out by the authorized state body for labor jointly with the authorized body in education area and approved by the republican commission for social partnership and regulation of social and labor relations.

4. Development and revision of the industrial qualifications framework are carried out by authorized state bodies and employers' associations of relevant areas of activity and approved by the industrial commissions on social partnership and regulation of social and labor relations.

Footnote. Article 117 as amended by the Law of the Republic of Kazakhstan dated 06.04.2016 № 483-V (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

## **Article 118. Professional training, retraining and advanced training**

1. The necessity and volume of vocational training, retraining and advanced training for functioning and development of the organization are determined by the employer.

2. The employer conducts vocational training, retraining and advanced training of employees or other persons who are not in labor relations (trainee) with him:

1) directly in the organization (at the employer);

2) in educational organizations implementing educational programs of technical and vocational, post-secondary, higher and postgraduate education;

3) in other organizations that carry out vocational training, retraining and advanced training of personnel.

3. Vocational training, retraining and advanced training of trainees in the direction of the employer shall be carried out at the expense of the employer's funds or other means not prohibited by the legislation of the Republic of Kazakhstan, in accordance with the training contract.

4. The training contract must contain:

1) an indication of a particular profession, specialty, qualification obtained by the trainee, and (or) the name of the qualification course;

2) the rights and obligations of the employer and the trainee;

3) the period of study and the period of practicing at the employer after completion of training;

4) the procedure and cases of reimbursement to the employer of costs related to training, in proportion to the unfinished practicing period;

5) guarantees and compensation payments related to training;

6) responsibility of the parties.

The training contract may contain other conditions determined by agreement of the parties.

5. Workers undergoing vocational training, retraining and advanced training may, in agreement with the employer, be released from work or do part-time work.

6. The agreement, collective and (or) employment contracts may provide for benefits and compensation payments related to training.



7. The employer assists educational organizations implementing educational programs of technical and vocational education, in training, retraining and advanced training of the staff.

8. Employers in accordance with the legislation of the Republic of Kazakhstan on education as a practice base provide places for professional practice, create safe conditions and fulfill obligations provided for by contracts.

### **Article 119. Dual training**

Dual training is carried out in accordance with the dual training contract.

During the period of the production practice, the rules of the labor schedule are applied to the trainee.

During the production training and practice, the trainee performs certain functional duties, which are included in the work experience of the trainee, and during this time a compensatory payment may be made.

Personnel undergoing industrial training and practice are subject to the requirements for safety and labor protection.

## **CHAPTER 10. MATERIAL RESPONSIBILITY OF THE PARTIES TO THE LABOR CONTRACT**

### **Article 120. Obligation of the party to an employment contract for compensation for damage (harm)**

1. Material liability of a party to an employment contract for damage (harm) caused by it to the other party of the employment contract is for damage (harm) caused as a result of the guilty unlawful conduct (action or inaction) and causal relationship between the guilty unlawful conduct and the damage caused (harm), unless otherwise provided by this Code and other laws of the Republic of Kazakhstan.

2. The party to the employment contract that caused damage (harm) to the other party shall reimburse it in accordance with this Code and other laws of the Republic of Kazakhstan.

3. The labor, collective contract can specify the material liability of the employee and the employer.

4. Termination of an employment contract after infliction of damage (harm) does not entail the release of the party to the employment contract from the liability for compensation of the damage (harm) to the other party.

121. Liability of the employer for damage caused to the employee by unlawful deprivation of opportunity to work

1. The employer is obliged to compensate the employee for not receiving his salary and other payments due to him in case of illegal transfer to another job, preventing the employee from working in the workplace, unilateral change of the terms of the employment contract, suspension from work, termination of the employment contract.

2. Additional cases of compensation by the employer of damage caused by unlawful deprivation of an employee of the opportunity to work may be established by the labor, collective contract.

## **122. Liability of the employer for harm caused to life and (or) health of the employee**

1. In case of causing harm to life and (or) health of an employee in connection with performance of his labor duties, the employer is obliged to compensate for harm in the amount and order, specified by the legislation of the Republic of Kazakhstan.

2. Damage specified in paragraph 1 of this article shall be compensated in full in the absence of employee's insurance payments, except for the case provided for in paragraph 3 of this article. In the presence of insurance payments, the employer is obliged to compensate to employee the difference between the sum insured and the actual amount of damage.

3. If the damage caused to the employee is related to establishment of the degree of professional disability for work from five to twenty-nine percent inclusive, the employer must compensate the employee for the lost wages and expenses caused by damage to his health.

The amount of expenses caused by damage to health, reimbursed by the employer during the period of establishing the degree of disability may not exceed two hundred and fifty monthly calculation indicators established for the relevant fiscal year by the law on the republican budget, at the time of payment.

Payment for reimbursement of expenses caused by damage to health is carried out on the basis of documents confirming these expenses, submitted by the employee or the person who incurred these expenses. At that, the cost of medical assistance provided within the guaranteed volume of free medical care and in the system of compulsory social health insurance in accordance with the legislation of the Republic of Kazakhstan in health care area is not subject to reimbursement.

## **123. The employee's liability for causing damage to the employer**

1. Material liability of the employee for damage caused to the employer occurs in cases provided for by this Code, other normative legal acts of the Republic of Kazakhstan and acts of the employer.

2. Responsibility of the employee for damage caused to the employer is excluded if the damage arose as a result of force majeure or extreme necessity, necessary defense, and also the failure of the employer to fulfill obligation to ensure proper conditions for preservation of property transferred to the employee.

3. The employee is obliged to compensate the direct actual damage caused to the employer.

4. Direct actual damage means a real reduction in the available property of the employer or worsening of the state of the said property (including third-party property held by the employer, if the employer is responsible for preservation of this property), as well as the need for the employer to have expenses or excessive payments for acquisition or restoration of the property.

5. It is inadmissible to impose liability on the employee for the damage, which can be classified as a normal production and economic risk.

6. The employer is obliged to create conditions necessary for a normal work and ensuring the complete safety of the property entrusted to the employees.

7. The list of posts and works occupied or performed by employees with whom an agreement on full individual or collective (joint) liability may be concluded for the failure to ensure safety of property and other valuables transferred to employees, as well as a model contract for full financial responsibility, are approved by the employer's act.

8. Liability for the full amount of damage caused to the employer shall be borne by the employee in the following cases:

1) failure to ensure preservation of property and other valuables transferred to the employee on the basis of a written contract on assuming full financial responsibility;

2) failure to ensure safety of property and other valuables received by the employee for a report under a one-time document;

3) causing damage in the state of alcohol, narcotic or toxicomaniac intoxication (their analogs);

4) shortage, deliberate destruction or deliberate damage to materials, semi-finished products, products (output), including during their manufacturing, as well as tools, measuring devices, special clothes and other items issued by the employer to the employee for use;

5) violation of the non-competition condition that led to the damage to the employer;

6) in other cases stipulated in the labor, collective agreements.

## **CHAPTER 11. GUARANTEES AND COMPENSATION PAYMENTS**

### **Article 124. Guarantees when employees perform state or public duties**

1. The employer shall exempt the employees from performing their labor duties while they are involved in state or public duties in cases stipulated by the laws of the Republic of Kazakhstan, while retaining their place of work (position).

2. For performance of state and public duties, the employee's salary is paid at the place of performance of the specified duties, but not below the average salary at the place of work.

3. Persons who have served military service, for a period of two months after it, have a priority right to apply for work in an organization where they worked before conscription for urgent military service.

#### **Article 125. Guarantees for employees sent for medical examination**

For the time of periodic medical examinations at the expense of the employer, the employees, who are required to pass them in accordance with this Code or a collective contract, retain the place of work (position) and average salary.

#### **Article 126. Guarantees for employees who are donors**

An employee, who is a donor, during the examination and donation of blood and its components, retain the place of work (position) and average salary, and other guarantees are provided in accordance with the legislation of the Republic of Kazakhstan in health care area.

#### **Article 127. Guarantees and compensation payments for employees on business trips**

1. For the duration of a business trip, the employee retains the place of work (position) and wages for working days falling on the days of the business trip.

2. Employees sent on business trips are paid:

- 1) daily subsistence allowance for calendar days of business trips, including travel time;
- 2) travel expenses to and from the place of destination;
- 3) expenses for renting accommodation.

3. Conditions and terms for sending employees on business trips are determined by labor, collective contracts or the employer's act.

4. Sending of workers for a business trip under the age of eighteen, pregnant women, as well as disabled workers, is allowed if such work is not prohibited to them for medical reasons. At the same time, these workers have the right to refuse to be sent on a business trip.

5. Workers who have children under the age of three, employees caring for sick family members or raising children with disabilities are entitled to refuse going on a business trip if children with disabilities or sick family members need constant care on the basis of a medical certificate.

#### **127-1. Guarantees for workers engaged in labor activity in ecological disaster and radiation risk zones**

Guarantees for employees engaged in labor activity in the zones of ecological disaster and radiation risk are established by the laws of the Republic of Kazakhstan.

#### **127-2. Guarantees for employees, workers who participated in peacekeeping operation**

Guarantees for employees, workers who took part in peacekeeping operation are established by the laws of the Republic of Kazakhstan.

#### **Article 128. Compensatory payments when transferring an employee to another locality together with the employer**

1. When transferring an employee to work in another locality together with the employer, the employer is obliged to reimburse to the employee for:

- 1) relocation of the employee and his family members;
- 2) transportation of employee's property and his family members.

2. Procedure and amount of compensation payments provided for in paragraph 1 of this article shall be determined by labor, collective contracts or the employer's act.

#### **Article 129. Compensatory payments in connection with the use of personal property by the employee in the interests of the employer**

By agreement of the parties, when using the employee's personal property in the interests of the employer and with his consent, the employer makes a compensation payment for the use, depreciation (amortization) of the instrument, personal transport, other technical means and the costs of their operation.

#### **Article 130. Compensatory payments to employees in cases when their work takes place on the way or has a traveling character or is connected with official trips within the serviced areas**

1. Employees, whose work takes place on the way or has a traveling character or is connected with official trips within the serviced areas, receive compensatory payments for each day of stay outside the permanent place of residence in the manner established by the agreement, collective, labor contracts and (or) the employer's act.

2. Workers of railway, river, marine, road transport, civil aviation, highways, trunk pipelines, trunk communication lines and structures on them, radio relay lines and structures on them, overhead power lines and structures on them, communication facilities, as well as workers serving the sections of the State border of the Republic of Kazakhstan are the employees whose permanent work takes place on the way or has a traveling character or is connected with official trips within the serviced areas.

3. In the event that employees are on the move not all working days of the month, the payment is made in proportion to the actual number of days of travel to the place of work (operation) and back.

### **Article 131. Compensation payments in connection with loss of work**

1. The employer makes compensation payments in connection with the loss of work in the amount of the average monthly wage in the following cases:

1) upon termination of the employment contract at the initiative of the employer in case of liquidation of the employer - legal entity or termination of the activity of the employer - individual;

2) upon termination of the employment contract at the initiative of the employer in the event of reduction in the number or staff of employees;

3) upon termination of the employment contract at the initiative of the employee in the event of failure of the employer to comply with the terms of the employment contract.

2. The employer makes compensation payments in connection with the loss of work upon termination of the employment contract at the initiative of the employer in the event of a decrease in the production volume, work performed and services rendered, which caused worsening of the economic state of the employer, in the amount of the average salary for two months.

3. The labor, collective contracts or the employer's act may provide for a higher amount of compensation for loss of work.

### **Article 132. Procedure and conditions for payment of field allowance**

1. Field allowance shall be paid to the employees of geological exploration, topographical and geodetic, survey organizations when performing work in the field:

1) outside a permanent place of residence without a daily return to a permanent place of residence;

2) outside the permanent place of residence, but with a daily return to the site of the field organization, which is also not a permanent place of residence;

3) outside the permanent place of residence through the organization of work on a rotational basis.

2. Procedure, terms of payment and the size of the field allowance, calculation of the time of work in the field conditions are established in agreements, collective, labor contracts and approved by the employer's act.

### **Article 133. Payment of social benefits to employees for temporary disability at the expense of the employer's funds**

1. The employer is obliged at the expense of his funds to pay a social allowance to employees for temporary disability.

2. The basis for payment of social benefits for temporary disability is the disability certificates issued in accordance with the procedure approved by the authorized body in health care area.

3. Social benefits for temporary disability are paid to employees from the first day of disability until the day of restoration of work capacity or until disability is established in accordance with the legislation of the Republic of Kazakhstan.

4. Social benefits for temporary disability are not paid:

1) to the employee whose temporary disability occurred as a result of work-related injuries received in the course of a criminal offense, in the case of determination of guilt by a court verdict that has entered into legal force;

2) during the period of compulsory treatment of the employee by court ruling (except for the mentally ill);

3) during the time when the employee is under arrest and during the forensic medical examination in the case of determination of his guilt by a verdict or court order that entered into legal force;

4) during temporary disability of an employee due to the diseases or work-related injuries resulting from the use of alcohol, narcotic and toxicological agents;

5) for the days of temporary disability, falling within the paid annual work leave.

5. The size of the social allowance for temporary disability is determined by the Government of the Republic of Kazakhstan, the procedure for assignment and payment - by the authorized state body for labor.

Employers have the right to establish additional payments to employees to the amount of social benefits for temporary disability, established by the legislation of the Republic of Kazakhstan

## **CHAPTER 12. SPECIFICS OF LABOR REGULATION OF INDIVIDUAL CATEGORIES OF EMPLOYEES**

### **Article 134. Seasonal works**

1. Seasonal works are the works that due to climatic or other environmental conditions are performed during a certain period (season), but not more than one year.

2. The employment contract should specify the condition for concluding a contract for seasonal work and a certain period of its implementation.

3. At the conclusion of an employment contract for seasonal work, the probationary period for the purpose of verifying the employee's compliance with the work assigned to him is not established.

4. An employment contract with employees engaged in seasonal work, in addition to the grounds provided for in Article 52 of this Code, may be terminated at the initiative of the employer in the following cases:

1) suspension of work at the employer for a period of more than two weeks for production reasons;

2) absence of an employee for work for one month in a row due to temporary disability.

5. An employee engaged in seasonal work has the right to terminate the employment contract at his own initiative, having notified the employer about it in writing in seven calendar days to go before it.

6. The employer is obliged to notify the employee engaged in seasonal work in writing about the forthcoming termination of the employment contract on the grounds provided for by subparagraphs 1) and 2) of paragraph 1 of Article 52 of this Code, seven calendar days to go before it.

7. Upon termination of an employment contract with an employee engaged in seasonal work, the employer shall make a compensation payment for the unused leave in proportion to the time worked.

8. Upon termination of an employment contract with an employee engaged in seasonal work, on the grounds provided for by subparagraphs 1) and 2) of paragraph 1 of Article 52 of this Code, compensation is paid in the amount of a two-week average salary.

### **Article 135. Rotational work**

1. Rotational work is a special form of the labor process outside the place of permanent residence of workers, when their daily return to their permanent place of residence can not be ensured.

2. The employer is obliged to provide workers involved in a rotational work while staying at the work site with accommodation and organize their meals for life support, delivery to the place of work and back, as well as conditions for performance of work and inter-shift rest.



The employer provides the conditions of the employee's stay at the work site, as well as the procedure for applying the rotational method of work in accordance with the labor, collective contracts and (or) the regulations on the rotational work approved by the employer.

3. Work performed on a rotational basis is not allowed for workers under the age of eighteen, pregnant women with a gestation period of twelve or more weeks, the disabled of the first category from the date of the medical report. Other workers may be involved in work performed on a rotational basis, if such work is not contraindicated to them on the basis of medical conclusions.

4. A watch is considered to be a period, including the time of performance of work at the facility and the time between inter-shift holidays. The duration of the watch may not exceed fifteen calendar days.

With the written consent of the employee, the duration of the watch can be increased to thirty calendar days in accordance with collective, labor contracts.

For crew members of marine vessels with the consent of the employee, the duration of the watch can be increased to one hundred and twenty calendar days.

5. When the rotational work method is established, the summarized recording of working hours is established for a quarter or other longer period, but not more than one calendar year.

6. Working hours and rest time within the accounting period are approved by the rotational work schedule (watch schedule). The accounting period covers working hours, rest time, travel time from the employer's location or from the point of collection to the place of work and back, as well as other periods falling on this calendar period of time. At that, the total length of working time for the accounting period should not exceed the norm established by this Code. The employer is obliged to keep a record of the working time and rest time of each employee working on a rotational basis.

Travel time from the employer's location or from the point of collection to the place of work and back is not included in the working hours. With a working shift of more than eight hours, the break for rest and eating is set for at least one hour.

7. Payment for the work of employees working on rotational basis at night, weekends and holidays, is made not later than the date of payment of wages for the worked month, provided for by labor, collective contracts.

### **Article 136. Household worker**

1. Household workers are recognized as workers who perform works (render services) at the employers - individuals in the household, which is managed by one or more family members if the works (services) are performed (rendered) not for the purpose of generating income by the employer and / or for the employer.

2. Issuance of an act on employment or termination of employment with a household worker and introduction of information about his work in the work book by the employer is not carried out.

3. Terms of a written warning on termination (cancellation) of an employment contract with a household worker, as well as the cases and amounts of compensation payments in connection with the loss of employment, are established by an employment contract.

4. Individual labor disputes between a household worker and an employer are resolved by agreement of the parties and (or) in court.

### **Article 137. Homeworker**

1. Homeworkers are those who have concluded an employment contract with the employer about doing work at home with their personal labor, using their materials and equipment, tools and devices or allocated by the employer or purchased at the expense of the employer's funds.

2. The employee's performance of work at home can be established both at the conclusion of the employment contract, and during the term of the employment contract by introduction of appropriate changes in the employment contract.

3. In the employment contract for performance of work at home, the following conditions must be provided:

1) performance of works using equipment, materials, tools and devices owned by the employee or allocated by the employer or purchased at the expense of the employer;

2) the procedure and terms of providing the employee with raw materials, materials, semi-finished products, necessary for performance of work;

3) compensatory and other payments to the employee.

### **Article 138. Remote work**

1. Remote work is a special form of implementation of the labor process outside the employer's location with the use of information and communication technologies in the process of work.

2. The employer shall provide the employee with communication facilities (communications tools) and bear the costs of their installation and maintenance. In the case when the employee uses his own means of communication on an ongoing basis, the employer pays compensation, the amount and procedure for payment of which is established by agreement with the employee.

By agreement of the parties, the remote worker may be paid for other costs associated with performance of work for the employer (the cost of electricity, water and other costs).

3. For workers engaged in remote work, a fixed record of working hours is established, the specifics of control over which are determined in the employment contract.

### **Article 139. Civil service**

1. Admission to the civil service is carried out in the order of appointment or by competition.

2. A competition is organized and conducted by a state institution, a state enterprise holding a vacant post.

3. Admission to the civil service is carried out by concluding an employment contract and issuing an employer's act.

4. A person who has previously committed a corruption offense may not be accepted for civil service duties related to performance of management functions.

5. Development and approval of the register of civil servants' posts are carried out by the authorized state bodies of the relevant areas of activity in coordination with the authorized state body for labor.

6. A civil servant shall not be entitled to:

1) use the means of material, technical, financial and information support, other state property and official information for non-official purposes;

2) participate in activities that impede the normal functioning of the civil service and performance of official duties;

3) use the official position for purposes other than civil service;

4) disclose information that became known during the period of civil service, constituting state secrets, official and other secret protected by law.

7. Procedure and conditions for attestation of civil servants are determined by the authorized state body of the relevant field of activity.

8. A civil servant, upon his written application, may be transferred to work in another state institution, a state enterprise upon agreement between the heads of the relevant organizations.

9. Payment for labor of civil servants, maintained at the expense of the state budget, is determined by the Government of the Republic of Kazakhstan.

Specialists in health care area, social security, education, culture, sports and veterinary, who are civil servants and working in rural areas, by the decision of local representative bodies at the expense of budgetary funds, are given an increased official salaries and tariff rates by at least twenty-five percent in comparison with salaries and rates of civil servants engaged in these types

of activities in urban conditions, unless otherwise established by the laws of the Republic of Kazakhstan.

The list of positions of specialists in health care area, social security, education, culture, sports and veterinary, who are civil servants and working in rural areas, is determined by the local executive body in agreement with the local representative body.

10. Civil servants maintained at the expense of the state budget are provided with a basic paid annual leave for not less than thirty calendar days with payment of allowance for health rehabilitation in the amount of the official salary.

Allowance for health rehabilitation for civil servants is paid once a calendar year when providing the paid annual labor leave.

#### **Article 140. Specifics of labor regulation of the head of executive body of a legal entity and other members of the collegial executive body of a legal entity**

1. Conclusion of an employment contract, the procedure and terms of remuneration for labor, bringing to disciplinary liability, suspension of the head of the executive body from work are carried out in accordance with this Code, other normative legal acts of the Republic of Kazakhstan, documents approved by the founders, the owner of the property of the legal entity or authorized founders, owner of a person (body) or authorized body of a legal entity, provisions on separate structural divisions of the legal entity and the employment contract.

2. In the event that the sole founder (participant, shareholder) is the sole executive body of the legal entity, the employment contract is not concluded. Labor relations are documented by the employer's act on employment, which must include the labor function, the term of employment, the date of commencement of work, the place of performance of work, as well as the amount and other terms of payment for labor.

In the event of a change in the composition of the founders (participants, shareholders), an employment contract is concluded with the head of the executive body or labor relations are terminated with him on the basis of the decision of the founders, the owner of the property of the legal entity or the owner of the person (body) or the authorized body of the legal entity.

3. In case of appointment (election, confirmation to a post) of the head of the executive body for a new term, the labor contract shall be amended accordingly.

4. The employer's act on accepting and terminating the employment contract is signed by a person authorized by the decision of the founders, the owner of the property of the legal entity or authorized by the founders, the owner of the person (body) or the authorized body of the legal entity or documents approved by them.

5. Disciplinary sanction against the head and other members of the collegial executive body of a legal entity is imposed directly after the revelation of a disciplinary offense, but not later than two months from the date of its revelation.

The procedure for applying disciplinary sanctions to the head of the executive body of a legal entity is established by an act of the employer, approved by the decision of the founders, the owner of the property of the legal entity or authorized by the founders, the owner of the person (body) or the authorized body of the legal entity, taking into account the specifics of the legislation of the Republic of Kazakhstan and the constituent documents of the legal entity.

6. The specifics of labor regulation of the head of the executive body of the legal entity provided for by this Code extend to the sole executive body of the legal entity, as well as to other members of the collegial executive body of the legal entity.

#### **Article 141. Regulation of labor of employees relating to civil aviation personnel**

The labor of employees related to aviation personnel of civil and experimental aviation directly related to flight safety is regulated by this Code with the peculiarities, stipulated in the Law of the Republic of Kazakhstan "On the use of the airspace of the Republic of Kazakhstan and aviation activities" and other normative legal acts of the Republic of Kazakhstan establishing special standards for duration of working hours and rest time, taking into account international standards and standards in the civil aviation area.

#### **Article 142. Regulation of labor of employees relating to crew members of marine vessels (onboard personnel)**

The labor of employees related to the members of the crews of marine vessels (onboard personnel) is regulated by this Code with the peculiarities, stipulated by the Law of the Republic of Kazakhstan "On Merchant Shipping" and other normative acts of the Republic of Kazakhstan establishing the specifics of regulation of labor, wages, working hours and rest time of crew members of marine vessels (onboard personnel).

#### **Article 143. Regulation of labor of civil servants, deputies of the Parliament and maslikhats, judges of the Republic of Kazakhstan**

The labor of civil servants, deputies of the Parliament and maslikhats, judges of the Republic of Kazakhstan is regulated by this Code with the peculiarities, stipulated by the laws of the Republic of Kazakhstan and other normative legal acts of the Republic of Kazakhstan, establishing special conditions and procedures for admission to service, its passage and termination, special working conditions, labor remuneration conditions, as well as additional benefits, privileges and limitations.

#### **Article 144. Regulation of labor of persons in military service, employees of special state, law enforcement bodies and state courier service**

The labor of persons in military service, employees of special state, law enforcement bodies and the state courier service is regulated by this Code with special features provided for by special laws of the Republic of Kazakhstan and other normative legal acts of the Republic of Kazakhstan, establishing special conditions and procedures for admission to service, its passage

and termination, special working conditions, labor remuneration conditions, as well as additional benefits, privileges and limitations.

#### **Article 145. Regulation of labor of employees of the National Bank of the Republic of Kazakhstan and its departments**

The labor of employees of the National Bank of the Republic of Kazakhstan and its departments is regulated by this Code with the peculiarities, stipulated by the Law of the Republic of Kazakhstan "On the National Bank of the Republic of Kazakhstan" and other normative legal acts of the Republic of Kazakhstan and acts of the National Bank of the Republic of Kazakhstan establishing special conditions for appointment, termination of the employment contract, special working conditions, the system and terms of payment, as well as privileges and limitations.

#### **Article 146. Regulation of labor of employees who are members of the trade union bodies of the trade union**

The labor of employees who are members of the trade union bodies of the trade union is regulated by this Code with the peculiarities stipulated by the Law of the Republic of Kazakhstan "On Trade Unions".

### **SECTION 3. SOCIAL PARTNERSHIP AND COLLECTIVE RELATIONS IN LABOR AREA**

#### **CHAPTER 13. SOCIAL PARTNERSHIP IN LABOR AREA**

##### **Article 147. Bodies, principles and tasks of social partnership**

1. Parties to social partnership are the state in the person of the relevant executive bodies, employees and employers in the person of their representatives authorized in accordance with the established procedure.

2. Social partnership is provided in the form of interaction between the parties through the bodies of social partnership:

1) at the republican level - by the republican tripartite commission on social partnership and regulation of social and labor relations (hereinafter - the republican commission);

2) at the industrial level - by industrial commissions on social partnership and regulation of social and labor relations (hereinafter - the industrial commission);

3) at the regional (regional, municipal, district) level - regional, municipal, district commissions on social partnership and regulation of social and labor relations (hereinafter - the regional commission);

4) at the level of organizations in the form of collective contracts that establish specific mutual obligations in labor area between representatives of employees and the employer on the basis of the legislation of the Republic of Kazakhstan.

3. Regularly functioning republican, industrial, regional commissions are formed on the basis of the following principles:

1) mandatory participation of representatives of executive authorities, representatives of employers and employees in the activities of commissions;

2) the authority of the parties;

3) parity representation;

4) the equality of the parties;

5) mutual responsibility of the parties.

4. The personal composition of the commission members is formed by each party of the social partnership independently.

5. Social partnership in the Republic of Kazakhstan is aimed at solution of the following tasks:

1) establishment of an effective mechanism to regulate social, labor and related economic relations;

2) assistance in ensuring social stability and social harmony on the basis of an objective consideration of the interests of all sectors of society;

3) assistance in ensuring the guarantees of the rights of workers in labor area, their social protection;

4) facilitation of the process of consultations and negotiations between the parties to social partnership at all levels;

5) assistance in resolving collective labor disputes;

6) development of proposals for implementation of state policy in social and labor relations area.

#### **Article 148. Organization of social partnership**

1. Republican, industrial and regional commissions are regular bodies to coordinate the interests of the parties to social partnership through consultations and negotiations that are documented by relevant decisions binding on the parties.

2. Organization of social partnership is entrusted:

- 1) at the republican level – to the authorized state body for labor;
- 2) at the industrial level - to the authorized state bodies of the relevant areas of activity;
- 3) at the regional level - to local executive bodies of the respective administrative and territorial unit.

For the purposes of this Code, the list of sectors is established by the republican commission.

3. Participants of the commissions are:

- 1) at the republican level – the authorized representatives of the Government of the Republic of Kazakhstan, republican associations of workers and republican associations of employers;
- 2) at the industrial level – the authorized representatives of authorized state bodies of relevant areas of activity, representatives of employers and employees;
- 3) at the regional level - the authorized representatives of local executive bodies, representatives of employers and employees.

4. Plenipotentiary representatives of employees are:

- 1) at the republican level - republican associations of trade unions;
- 2) at the industrial level - industrial trade unions;
- 3) at the regional level - territorial associations of trade unions.

5. Plenipotentiary representatives of employers are:

1) at the republican level - representatives of the National Chamber of Entrepreneurs of the Republic of Kazakhstan, the republican union (associations) of subjects of private entrepreneurship, the republican association for small entrepreneurship, and republican industrial associations of subjects of private entrepreneurship.

Representation from the said unions (associations) is carried out on a pro-rata basis, depending on the number of republican public associations included into their composition;

- 2) at the industrial level - representatives of the National Chamber of Entrepreneurs of the Republic of Kazakhstan and (or) industrial organizations;
- 3) at the regional level - representatives of the regional chambers;



at the regional level - regional associations of private entrepreneurs, the regional association for small business;

at the municipal, district levels - municipal, district associations for small business.

#### **Article 149. The right to negotiate preparation of contracts**

1. Negotiations on development, content, conclusion, amendment, complementation of a contract may be initiated by any of the parties to social partnership.

2. If there are several representatives authorized by employees and employers at the republican, industrial and regional levels, each of them is given the right to negotiate on the basis of the pro-rata representation principle, depending on the number of represented employees and employers.

#### **Article 150. The order of negotiation, development and conclusion of contracts**

1. The parties that received written proposals to start negotiations from the other party are obliged to consider them within ten calendar days and begin negotiations.

If there are disagreements between the parties on certain provisions of the agreements, the parties must sign a contract on the agreed terms and simultaneously draw up a protocol of disagreements within three months from the date of the commencement of negotiations.

If the parties could not come to an agreement, a protocol is drawn up, which contains the finalized proposals of the parties on eliminating disagreements and the terms for resumption of negotiations.

2. The procedure for negotiating, the timing of development and conclusion of contracts, as well as the amendments and additions to them, accession to them shall be approved by the commissions.

3. Agreements come into force from the moment they are signed by the parties or from the day set up in the agreements. All annexes to agreements are their integral part and have equal legal force with them.

4. The term of the agreement is established by agreement of the parties or before adoption of a new agreement, but may not exceed three years.

5. In cases where workers are simultaneously covered by several agreements, the most favorable conditions for employees are applied if there are written applications from employees.

6. Decisions of the commissions are taken only on the basis of reaching agreement of all parties in the negotiations and are documented by corresponding agreements. The order of decision-making and organization of work is developed and approved by the commissions.

7. General, industrial, regional agreements are signed by representatives of the parties to social partnership.

### **Article 151. Registration of agreements**

1. Industrial and regional agreements with annexes signed by the parties are sent for notification registration within a ten-day period.

2. Registration of industrial and regional agreements concluded at the regional level is carried out by the authorized state body for labor.

3. Registration of industrial and regional agreements concluded at the municipal and district level is carried out by local executive bodies.

### **Article 152. Parties, types of social partnership agreements**

1. At the republican level, a general agreement is concluded between the Government of the Republic of Kazakhstan, the republican associations of employers and the republican associations of trade unions.

2. At the industrial level, industrial agreements are concluded between the authorized state bodies of the relevant area of activity, plenipotentiary representatives of employers and industrial trade unions.

3. Regional (regional, municipal, district) agreements between local executive bodies and plenipotentiary representatives of employers and territorial associations of trade unions are concluded at the regional level.

### **Article 153. Content of social partnership agreements**

1. Agreements should include provisions:

- 1) on validity period;
- 2) on the order of control over execution;
- 3) on the procedure for introducing amendments and additions to the agreement;
- 4) on the responsibility of the parties in case of failure to fulfill their obligations.

2. The content of the general agreement shall be determined by the republican commission on the basis of the draft general agreement submitted by all parties to the social partnership or one of them.

3. The content of industrial and regional agreements is determined by the industrial and regional commissions on the basis of draft agreements submitted by all parties to the social partnership or one of them.

4. The general agreement should provide for the following provisions:

1) on consideration of draft laws in social and labor relations area;

2) on the measures to prevent social and labor conflicts and strikes;

3) on development of the labor market, promotion of effective employment of the population;

4) on development and approval of a national qualifications framework;

5) on conditions and labor protection, industrial and environmental safety;

6) on development of social partnership and dialogue;

7) on the procedure for formation and activities of a group of observers to participate in development and adoption of agreements at the industrial and regional levels.

5. Industrial agreements should include the provisions:

1) on the order of consideration of the program and strategic documents of the relevant sector;

2) on development of social partnership and dialogue in the sector;

3) on measures to prevent social and labor conflicts and strikes;

4) on basic principles of the wage system of the sector, including establishment of:

minimum tariff rates (salaries) in the sector;

limit values of inter-category coefficients;

a unified procedure for establishment of additional payments to workers engaged in heavy work, work with harmful and (or) dangerous working conditions;

5) on the procedure for approving the industrial qualification framework;

6) on the procedure for formation and activities of the Council for occupational safety and labor protection;

7) on the procedure for formation and activities of the Council on prevention and resolution of collective labor disputes;

8) on the procedure for formation, competence and activities of a group of observers to participate in development and adoption of agreements, collective contracts;

9) on the procedure for formation and activities of a coordination center for development of human resources and qualifications.

6. Regional agreements should contain provisions for:

1) development of social partnership and dialogue in the region;

2) the order of consideration of the program and strategic documents of the region;

3) measures to prevent social and labor conflicts and strikes;

4) assisting employers and workers' representatives in resolving labor disputes;

5) taking measures aimed at ensuring employment and reducing unemployment;

6) the procedure for formation and activities of the Council on prevention and resolution of collective labor disputes.

7. The provisions of the agreement, which worsen the position of the employee in comparison with the labor legislation of the Republic of Kazakhstan, shall be declared null and void and shall not be subject to application.

#### **Article 154. Effect of social partnership agreements, control over their implementation and responsibility of the parties**

1. Effect of the general agreement shall extend to state bodies, employers, employees in the person of their representatives authorized in the established procedure.

2. Effect of the industrial agreement shall extend to the state bodies of the relevant area of activity, employers, employees and their representatives in the relevant sector.

3. Effect of the regional agreement shall extend to the local executive bodies, employers, employees and their representatives of the relevant administrative and territorial unit.

4. The agreements also apply to organizations registered in the territory of the Republic of Kazakhstan, property owners whose founders (shareholders) or shareholders are foreign citizens or foreign legal entities or legal entities with foreign participation, as well as branches and representative offices of foreign legal entities.

5. The authorized state body for labor at the republican level, the state bodies of the relevant area of activity at the industrial level and local executive bodies at the regional level are obliged to officially publish the agreements within thirty calendar days from the date of their signing.

6. The parties to social partnership shall control the implementation of agreements.

7. Evasion of representatives of the parties from participating in negotiations on concluding, amending, supplementing agreements, or unreasonable refusal to sign an agreement, violation of the terms of negotiations and failure to ensure the work of the relevant commission, failure to provide information necessary for negotiating and controlling the compliance with the agreements, as well as violation or non-fulfillment of their conditions entail responsibility established by the laws of the Republic of Kazakhstan.

### **Article 155. Public control over observance of the labor legislation of the Republic of Kazakhstan**

Republican and industrial associations of workers carry out public control over observance of the labor legislation of the Republic of Kazakhstan on terms and in the manner stipulated in agreements and collective contracts.

## **CHAPTER 14. COLLECTIVE CONTRACT**

### **Article 156. Parties to the collective contract. The procedure for collective negotiations, development and conclusion of a collective contract**

1. The parties to the collective contract are the employer and employees in the person of their representatives authorized in the established procedure.

2. The proposal to start collective negotiations and conclude a collective contract can come from either side.

The party that received the notification of the other party with a proposal to start negotiations on conclusion of a collective contract is obliged to consider it within ten days and enter into negotiations in the order established by paragraph 4 of this article.

3. A collective contract may be concluded both in organizations and in branches and representative offices of foreign legal entities. In the organization, one collective contract is allowed.

4. To conduct collective negotiations and prepare a collective contract, the parties shall set up a commission on a parity basis. The number of members of the commission, its staff, the timing of development of the draft and conclusion of a collective contract are determined by agreement of the parties.

Employees who are not members of the trade union have the right to authorize the body of the trade union to represent their interests in the relationship with the employer.

If there are several representatives of workers in the organization, they set up a single representative body to participate in the work of the commission, discussion and signing of a collective contract.

5. The draft collective contract prepared by the commission is subject to mandatory discussion by the employees of the organization. The draft is finalized by the commission taking into account the received recommendations and proposals.

6. Upon reaching an agreement between the parties, the collective contract shall be drawn up in at least two copies and signed by the representatives of the parties.

7. If there are disagreements between the parties on certain provisions of a collective contract, the parties must sign a collective contract on the agreed terms and simultaneously draw up a protocol of disagreements within one month from the day of their appearance. The disagreements that have arisen in the course of collective negotiations may be the subject of further collective negotiations on their settlement with introduction of amendments and additions.

8. Amendments and additions to the collective contract are made only by mutual consent of the parties in the manner established by this article, for its conclusion.

9. The parties to collective negotiations shall not be entitled to disclose the information received, if such information constitutes state secrets, official, commercial or other secret protected by law.

10. The parties to collective negotiations may be exempted from performance of their duties for the period of their conduct, while retaining their wages.

11. The employer is obliged to submit the collective contract signed by the parties to the local labor inspectorate for monitoring within one month from the date of signing.

### **Article 157. Content and structure of a collective contract**

1. Content and structure of a collective contract shall be determined by the parties in accordance with the concluded general, industrial and regional agreements.

The collective contract includes the following provisions:

1) on standardization, wage systems, size of tariff rates and salaries, allowances and additional payments to employees, including those engaged in heavy work, work with harmful and (or) dangerous working conditions;

2) on establishment of inter-category coefficients;

3) on duration of working hours and rest time, leaves;

4) on creation of healthy and safe working and living conditions, on the volume of financing measures for safety and labor protection, on improving health protection;

5) on creation of conditions for activities of the trade union;

6) on the procedure for introducing amendments and additions to the collective contract;

7) on control and responsibility of employees and the employer for execution of a collective contract;

8) on the acts of the employer, requiring consideration of opinion of workers' representatives;

9) on the procedure for admission to heavy work, work with harmful and (or) dangerous working conditions of persons who reached retirement age in accordance with paragraph 1 of Article 11 of the Law of the Republic of Kazakhstan "On Pensions in the Republic of Kazakhstan".

2. The collective contract may include mutual obligations of employees and the employer on the following issues:

1) on improving labor organization and increasing efficiency of production;

2) on the order of indexation of wages;

3) on providing employment, training, advanced training, retraining and employment of the released workers;

4) on guarantees and benefits to employees undergoing training, retraining, advanced training, and also to workers combining work with training;

5) on improving the living conditions of workers;

6) on health improvement, sanatorium treatment and rest of workers;

7) on guarantees to employees elected to the bodies of the trade union, as well as to elective representatives and conditions for performance of their works;

8) on the procedure for taking into account the motivated opinion of the body of the trade union in the event of termination of the employment contract with employees who are members of the trade union;

9) on compensation payment in case of termination of the employment contract at the initiative of the employer when the employee reaches retirement age;

10) on compensation payment for the time of finding employees on the road from the location of the employer or from the point of collection to the place of work and back;

11) on payment of maternity leave, leave for workers who adopted a newborn child (children), with preservation of the average wage minus the amount of social payments in case of loss of income due to pregnancy and childbirth, adoption of a newborn child (children) carried

out in accordance with the legislation of the Republic of Kazakhstan on compulsory social insurance;

12) on responsibility of employees and the employer for the damage caused by them;

13) on voluntary pension contributions;

14) on guarantees of medical insurance for employees and their families, on environmental protection;

15) on making, at the expense of the employer's funds, of voluntary pension contributions in favor of the employee in the event of inadequate funds for conclusion of a pension annuity contract with the insurance organization;

16) on measures to train employees in the basics of labor legislation of the Republic of Kazakhstan;

17) on payment of benefits and compensation payments, including in case of accidents related to work;

18) other issues identified by the parties and this Code.

3. Collective contract should not worsen the situation of employees in comparison with the labor legislation of the Republic of Kazakhstan, general, industrial, regional agreements. Such provisions are recognized as invalid and not applicable.

#### **Article 158. Terms, scope of a collective contract and responsibilities of the parties**

1. A collective contract is concluded for a period determined by the parties.

2. A collective contract shall enter into force from the moment of its signing, unless otherwise provided by its provisions, and is binding on the parties.

3. A collective contract shall apply to the employer and employees of the organization on behalf of whom the collective contract is concluded and to the employees who joined it. The terms and conditions of accession are defined in the collective contract.

4. Upon liquidation of the organization, declaring it bankrupt, a collective contract terminates on the date of termination of employment contracts with all employees.

5. Evasion of representatives of the parties to participate in negotiations to conclude, amend or supplement a collective contract or the unjustified refusal to conclude a collective contract, violation of the terms of the negotiations and failure to ensure the work of the relevant commission, failure to provide the information necessary to negotiate and monitor compliance with the provisions of the collective contract, as well as the violation or non-fulfillment of its conditions entail responsibility established by the laws of the Republic of Kazakhstan.



## **CHAPTER 15. CONSIDERATION OF INDIVIDUAL LABOR DISPUTES**

### **Article 159. Order of consideration of individual labor dispute**

1. Individual labor disputes are considered by conciliation commissions, and on unsettled issues or non-fulfillment of the decision of the conciliation commission - by courts, except for small business entities and heads of the executive body of the legal entity.

2. Conciliation commission is a permanent body established in the organization, its branches and representative offices on an equal footing from an equal number of representatives from the employer and employees.

3. Number of members of conciliation commission, the procedure for its work, the content and procedure for taking a decision by the conciliation commission, the term of office of the conciliation commission, the issue on engaging an mediator are established in a written agreement between the employer and representatives of employees or in a collective contract.

4. An application submitted to the conciliation commission shall be subject to mandatory registration by the said commission on the day of filing.

The dispute is considered in the presence of the applicant and / or the representative authorized by him within the limits of authority delegated to him in accordance with the normative legal acts of the Republic of Kazakhstan.

5. The conciliation commission is obliged to consider the dispute within fifteen working days from the date of registration of the application and to give copies of the decision to the parties to the dispute within three days from the date of its adoption.

6. Decision of the conciliation commission is subject to execution within the period established by it, except for the dispute on reinstatement at work.

7. In the event of failure to fulfill the decision of the conciliation commission within a specified time, the employee or the employer has the right to apply to the court.

8. The parties to the conciliation commission are obliged to conduct annual training of the members of the conciliation commission in the basics of the labor legislation of the Republic of Kazakhstan, development of the ability to negotiate and achieve consensus in labor disputes.

### **Article 160. Terms of application for review of individual labor disputes**

To apply to the conciliation commission or to the court for review of individual labor disputes, the following terms are established:

1) on disputes on reinstatement at work - one month from the day of handing over a copy of the employer's act on termination of the employment contract to the conciliation commission, and for applying to the court - two months from the date of handing over a copy of the decision

of the conciliation commission when applying on unresolved disputes or failing to fulfill its decision by the party to the employment contract;

2) on other labor disputes - one year from the day when the employee or employer learned or should have learned about the violation of his right.

Duration of the term for reviewing the individual labor disputes is suspended during the validity period of the mediation contract for the labor dispute under consideration, and also in the absence of a conciliation commission prior to its establishment.

### **Article 161. Reinstatement of employee in work**

1. An employee who has been reinstated in his former job is paid an average wage for the entire period of forced absence (suspension from work) or a difference in wages for the time of performing lower paid work in case of illegal transfer to another job, but not more than for six months.

2. Decision of the conciliation commission or the court to consider an individual labor dispute on reinstatement of the employee in the previous work is subject to immediate execution. If the employer delays execution of the decision to reinstate in the work, the conciliation commission or the court makes a decision to pay the employee an average wage or a difference in wages for the delay of execution of the decision.

## **CHAPTER 16. CONSIDERATION OF COLLECTIVE LABOR DISPUTES**

### **Article 162. Definitions used in this chapter**

The following definitions are used in this chapter:

1) labor arbitration is a temporary acting body, set up by the parties to a collective labor dispute involving authorized persons to resolve a labor dispute when an agreement is not reached in the conciliation commission;

2) a strike - full or partial termination of work in order to meet the social and economic and professional requirements of employees in a collective labor dispute with the employer;

3) a conciliation commission - is a body established by agreement between the employer and employees (their representatives) to settle a collective labor dispute by conciliation of the parties;

4) conciliation procedures - consecutive consideration of the collective labor dispute initially in the conciliation commission, and in the absence of consent in it - in labor arbitration, and also by mutual agreement of the parties with the application of the mediation procedure.

### **Article 163. Emergence of a collective labor dispute**

1. Collective labor dispute is considered to arise from the day of the written notification of the employer about the requirements of employees on application of the labor legislation of the Republic of Kazakhstan, implementation or amendment of the terms of agreements, labor and (or) collective contracts, employer's acts documented in accordance with Article 164 of this Code.

2. The employer is obliged to consider the demands put forward by the employees not later than three working days, the employers' association - not later than five working days from the day of their receipt and take measures to resolve them, and if it is impossible to resolve it within the specified period - to bring their decisions and proposals in writing to the employees with indication of their representatives for further consideration of the disagreements that have arisen.

#### **Article 164. Bodies for consideration of collective labor disputes and procedure for documentation and consideration of the claims of employees**

1. Collective labor disputes are resolved in the following sequence: they are considered by the employer (association of employers) if it is impossible to resolve - in the conciliation commission, if the agreement is not reached in it - by labor arbitration, on the issues not settled by it - by courts.

2. Demands of employees on application of labor legislation of the Republic of Kazakhstan, implementation or amendment of the terms of agreements, collective and (or) labor contracts, employer's acts between employees and the employer, employers' association are formed and approved at the general meeting (conference) of employees.

A meeting of employees is considered eligible if at least two-thirds of the total number of employees of the organization is present.

A conference is considered eligible if at least two-thirds of delegates elected by employees in accordance with protocol decisions attend it.

A decision of a meeting (conference) of employees is considered adopted if at least two thirds of the participants voted to support the demands put forward by them. If it is impossible to hold a meeting (conference) of workers, the representative body of employees has the right to approve its decision by collecting at least two-thirds of the signatures of employees in support of the demands put forward by them.

Representatives of employees agree with the employer the rules for holding meetings (conferences) of employees, place, time, number of participants in the meeting (conference).

3. Employees' demands are set out in writing and sent to the employer, employers' associations within a three-day calendar period from the date of the meeting (conference).

4. In the event that these demands are put forward by employees of different employers, these demands may be submitted by industrial or territorial associations of trade unions or other individuals and (or) legal entities authorized by employees.

5. The employer, the association of employers is obliged to refrain from any interference that could prevent the meeting (conference) of employees for making demands.

6. Demands of employees when it is impossible to resolve them are considered in accordance with conciliation procedures.

7. At any stage of consideration of a collective labor dispute, the parties may apply to the mediator. The mediation procedure is independent of conciliatory procedures in the conciliation commission, labor arbitration and may be in parallel with them.

#### **Article 165. Conciliation commission**

1. Conciliation commission is a body established by a joint decision of the parties on an equal footing from an equal number of representatives from the employer and employees.

A decision on establishment of a conciliation commission is made within three working days from the day of informing or not informing its decision by the employer, the association of employers (their representatives) to the employees (their representatives) or drawing up a protocol of disagreements during collective negotiations. If there are several representatives of employees in the organization, they set up a unified representative body to participate in the work of the commission.

2. The employer, association of employers creates necessary conditions for the work of the conciliation commission.

3. Conciliation commission shall consider the demands of employees (their representatives) within a period not later than seven working days from the date of their receipt. The procedure for consideration of demands by the conciliation commission, extension of the specified period of review shall be carried out by agreement of the parties and documented by a protocol.

4. In the process of conciliation procedure, the conciliation commission shall consult with employees (their representatives), the employer, the association of employers (their representatives), state bodies and other interested persons.

5. A decision of the commission is made on the basis of an agreement of the parties, documented by a protocol signed by the representatives of the parties, binding on the parties and executed in the manner and terms established by the decision of the conciliation commission. In case of refusal by one of the parties to sign the protocol, the other party makes a corresponding record in the protocol.

6. If the agreement is not reached in the conciliation commission, its work ceases, and labor arbitration is established to resolve the dispute.

#### **Article 166. Labor arbitration**

1. Labor arbitration is established by the parties to a collective labor dispute within five working days from the date of termination of the work of the conciliation commission.

2. The number of members of the labor arbitration, its personal composition, procedure for considering the labor dispute are determined by agreement of the parties on a parity basis. Labor arbitration must consist of not less than five people. The labor arbitration should include a state labor inspector, a representative of the Labor Arbitration Council to prevent and resolve collective labor disputes, and, if necessary, other persons.

According to the demands of the workers, the members of the conciliation commission may not be part of the labor arbitration.

3. Chairman of labor arbitration shall be elected by the members of arbitration from among them.

4. Collective labor dispute is considered by labor arbitration with obligatory participation of representatives of the parties to the collective labor dispute, and, if necessary, also with participation of representatives of other interested persons.

5. Procedure for consideration of a dispute is determined by labor arbitration and brought to the attention of the parties to a collective labor dispute.

6. A decision of labor arbitration shall be made not later than seven working days from the day of its establishment by a simple majority of the members of the arbitration. When the votes of members of labor arbitration are divided equally, the voice of the chairman is decisive. The decision must be motivated, stated in writing and signed by all members of the arbitration.

7. If the agreement of the parties to a collective labor dispute is not reached in the conciliation commission in organizations in which the laws of the Republic of Kazakhstan prohibit or restrict strikes, the establishment of labor arbitration is mandatory.

8. A decision of labor arbitration shall be binding on the parties to a collective labor dispute.

9. In the event of non-fulfilment of the decision of labor arbitration within the specified period, the parties have the right to resolve the dispute in court.

#### **Article 167. Consideration of a collective labor dispute involving a mediator**

1. Procedure for consideration of a collective labor dispute involving a mediator is determined by agreement of the parties to a collective labor dispute.

2. As mediators, the parties determine the organizations and persons independent of them. The republican, industrial and regional commissions for regulating social and labor relations may, with the consent of the parties to a collective labor dispute, involve heads and employees of central and local executive bodies, associations and other public associations, employers and independent experts in the settlement of collective labor disputes.

In all cases of involving mediators from among them, a written consent for mediation must be obtained.

### **Article 168. Consequences of reaching an agreement of the parties on a collective labor dispute**

1. In all cases of reaching an agreement between the parties to a collective labor dispute on its resolution with or without a mediator, the unfinished conciliation proceedings shall be terminated, and the terms of the agreement between the parties shall be considered as the conditions for resolution of the dispute.

Agreements reached by the parties to a collective labor dispute are documented in writing.

2. Agreement between the parties on settlement of a dispute entails termination of a strike, if it was declared.

### **Article 169. Guarantees in connection with resolution of a collective labor dispute**

Members of the conciliation commission for the period of participation in negotiations on resolution of a collective labor dispute are exempted from work with preservation of wages.

Representatives of employees and their associations participating in resolution of a collective labor dispute may not be subjected to disciplinary sanction during resolution of a collective labor dispute, transferred to another job or employment contracts may not be terminated with them at the initiative of the employer without the prior consent of the body authorizing them for representation.

### **Article 170. Obligations of the parties and conciliatory bodies for settlement of collective labor disputes**

1. Neither party has the right to evade participation in conciliatory procedures.

2. Disagreements not settled in a collective labor dispute must be brought to attention of the parties in writing.

3. If settlement of the disputes between the parties to a collective labor dispute is impossible because of the lack of authority of the representative of the employer, the demands of employees are put forward to property owners, founders (participants) or shareholders of organizations, including organizations located in the territory of the Republic of Kazakhstan, whose property owners are foreign individual or legal entities or organizations with foreign participation.

4. In case of disagreement with the results of the procedures specified in paragraph 2 and 3 of this article, employees are entitled to use all other ways of protecting their interests provided for by law.

5. The employer is obliged:

1) within five working days from the day of receipt of the demands of employees drawn up in accordance with paragraph 3 of Article 164 of this Code, inform the local labor inspectorate about the occurrence of a collective labor dispute with subsequent weekly information on the situation until its final resolution;

2) during the day, inform the bodies of the Procurator's Office of the Republic of Kazakhstan and the local labor inspectorate about the beginning of a strike conducted without observing the requirements of this Code.

### **Article 171. Right to strike**

1. Employees may decide to hold a strike if, through conciliatory procedures, the collective labor dispute has not been resolved and, if the employer has evaded conciliation procedures or failed to comply with the agreement reached during resolution of the collective labor dispute.

2. A decision to hold a strike is taken at a meeting (conference) of employees (their representatives).

A meeting of employees is considered eligible if more than half of the total number of the organization's employees is present.

A conference is considered eligible if at least two-thirds of delegates elected by employees in accordance with protocol decisions attend it.

Decisions of the meeting (conference) of employees are considered to be adopted by a majority of the participants. If it is impossible to hold a meeting (conference) of workers, the representative body of workers has the right to approve its decision, collecting more than half of the workers' signatures in support of the strike.

3. A strike is headed by a body (strike committee), authorized by employees (their representatives). In the case of a strike declared by workers (their representatives) of several employers with the same demands, it may be headed by a joint body formed from an equal number of representatives of these workers.

4. Participation in a strike is voluntary. No one can be forced to participate or refuse to participate in a strike.

5. Persons forcing employees to participate or refuse to participate in a strike are liable in accordance with the procedure set up by the laws of the Republic of Kazakhstan.

### **Article 172. Announcement of the beginning of a strike**

1. The employer, the association of employers (their representatives) must be notified in writing by the body, authorized by employees, referred to in paragraph 3 of Article 171 of this Code, of the beginning of the strike and its possible duration not later than five working days before its announcement.

2. A decision to declare a strike shall specify:

- 1) a list of disagreements between the parties that are the basis for the strike;
- 2) the date, place and time of the beginning of the strike, the expected number of participants;
- 3) the name of the body, heading the strike, the composition of representatives of employees authorized to participate in conciliation procedures;
- 4) proposals for minimum necessary works (services) performed during the strike.

### **Article 173. Powers of the body heading the strike**

1. The body heading the strike shall act within the limits of the rights granted to it by this Code and on the basis of the powers vested in it by its employees (their representatives).

2. The body heading the strike has the right:

1) to represent the interests of employees in relations with the employer, the association of employers (their representatives), state, trade union, other legal entities, officials on resolution of the demands put forward;

2) to receive information from the employer, association of employers (their representatives) on the issues affecting the interests of employees;

3) to cover the course of consideration of the demands of employees in the mass media;

4) to attract specialists to give opinions on the matter of dispute;

5) to suspend a strike with the consent of employees (their representatives).

3. To resume a previously suspended strike, a reconsideration of the dispute by a conciliation commission, a mediator or in labor arbitration is not required. The employer, the association of employers (their representatives) and the body for resolving labor disputes must be warned about resumption of the strike not later than three working days to go before it.

4. The powers of the body, heading the strike terminate when the parties to a collective labor dispute sign an agreement on its settlement, and also in case the strike is declared illegal.

### **Article 174. Obligations of the parties to a collective labor dispute during a strike**

During the strike, the parties to a collective labor dispute must continue to resolve the dispute by negotiating.

The employer, state bodies and the body, heading the strike are obliged to take measures to ensure public order, security of the organization's property and workers' safety during the strike,



as well as the work of machinery and equipment, the stop of which poses an immediate threat to life and health of people.

### **Article 175. Guarantees to employees in connection with the strike**

1. Organization or participation in strikes (except for the cases provided for by paragraph 1 of Article 176 of this Code) may not be considered as a violation of the labor discipline by the employee and entail application of disciplinary sanctions provided for by this Code.

2. During the strike, the employee retains his place of work (position), the right to receive social benefits for temporary disability, work experience, and also other rights arising from labor relations are guaranteed.

Wages during the strike to the workers participating in it are not preserved, except when the strike is held in connection with non-payment or late payment of wages.

### **Article 176. Illegal strikes**

1. Strikes are recognized as illegal:

1) in periods of introducing military or emergency situation or special measures in accordance with the legislation of the Republic of Kazakhstan on the state of emergency; in the bodies and organizations of the Armed Forces of the Republic of Kazakhstan, other military formations and organizations that are responsible for ensuring the country's defense, state security, rescue works, search and rescue, fire prevention, prevention or liquidation of emergency situations; in special state and law enforcement bodies; in organizations that are dangerous production facilities; at emergency and emergency medical stations;

2) in organizations of railway transport, civil aviation, public health services, organizations providing vital activity of the population (public transport, water supply, electricity, heating, communications), on continuously operating plants, whose suspension is associated with severe and dangerous consequences, in case of non-observance of conditions, specified in paragraph 2 of this article;

3) in the event of an announcement without taking into account the terms, procedures and requirements provided for by this Code;

4) in cases where this creates a real threat to the life and health of people;

5) in other cases provided for by the laws of the Republic of Kazakhstan.

In the presence of one of the grounds specified in this paragraph, the prosecutor has the right to suspend the strike before the court takes the appropriate decision.

2. In the organizations of railway transport, civil aviation, public health services, organizations providing life activity of the population (public transport, water supply, electricity,

heating, communications), a strike is carried out if the list of services necessary for the population and the volume of relevant services are kept, defined on the basis of a preliminary agreement with the local executive body.

In continuously operating industries, a strike may only be carried out if the uninterrupted operation of the main equipment, mechanisms is ensured.

3. A decision to recognize a strike as illegal is taken by the court in accordance with the laws of the Republic of Kazakhstan.

4. A decision to recognize a strike as illegal is taken by the court at the request of the employer or the prosecutor.

The decision of the court is brought to the notice of the workers through the body heading the strike, which is obliged to immediately inform the strikers of the court decision, and in the absence of the body, heading the strike, directly by the employer.

The employer ensures placement of the text of the court decision in the places accessible to the general public.

The court's decision to recognize the strike as illegal is subject to immediate execution, and the strike - to termination.

In case of creating an immediate threat to the life and health of people, the prosecutor or the court, before taking the appropriate decision, has the right to suspend the strike.

5. The body heading the strike has the right to appeal the court decision in the manner specified by the laws of the Republic of Kazakhstan.

6. Persons provoking to continue participating in a strike recognized by the court as illegal are liable in accordance with the procedure established by the laws of the Republic of Kazakhstan.

### **Article 177. Consequences of recognizing a strike as illegal**

When a court recognizes a strike as illegal, the employer may bring the workers, who took part in organization or conduct of the strike, to disciplinary responsibility.

### **Article 178. Prohibition of lockout**

In the process of settling a collective labor dispute, including a strike, a lockout is forbidden, that is, the termination of employment contracts with employees at the initiative of the employer in connection with their participation in a collective labor dispute or strike, except for the case provided for in subparagraph 22) of paragraph 1 of Article 52 of this Code.

## **SECTION 4. LABOR SAFETY AND PROTECTION**

### **CHAPTER 17. STATE REGULATION IN THE FIELD OF LABOR SAFETY AND PROTECTION**

#### **Article 179. State regulation in the field of labor safety and protection**

State regulation in the field of labor safety and protection includes:

- 1) state supervision, control and monitoring of compliance with the requirements of the legislation of the Republic of Kazakhstan in labor safety and protection area;
- 2) development and adoption of normative legal acts of the Republic of Kazakhstan and normative and technical documentation in labor safety and protection area;
- 3) creation and implementation of economic stimulation systems to improve conditions, safety and labor protection, development and implementation of safe techniques and technologies, individual and collective protection of workers;
- 4) increase of efficiency of state, internal control over compliance with the legislation of the Republic of Kazakhstan in labor safety and protection area;
- 5) research on labor safety and protection issues, taking into account the best domestic and foreign experience in improving labor conditions and protection;
- 6) protection of the legitimate interests of employees affected by accidents related to work and occupational diseases, as well as members of their families;
- 7) establishment of guarantees and compensations for heavy work and work with harmful and (or) dangerous working conditions that may not be eliminated with the current technical level of production and labor organization;
- 8) training and advanced training of specialists in occupational safety and labor protection;
- 9) establishment of a unified procedure for recording occupational accidents and occupational diseases;
- 10) maintenance of a uniform information system in labor safety and protection area;
- 11) international cooperation in labor safety and protection area.

#### **Article 180. Requirements for labor safety and protection and financing of activities**

1. Requirements for labor safety and protection are established by the normative legal acts of the Republic of Kazakhstan and must contain rules, procedures and standards aimed at preserving the life and health of workers in the course of their labor activity.

2. Requirements for labor safety and protection are mandatory for employers and employees when they carry out activities in the territory of the Republic of Kazakhstan.

3. Financing of activities for labor safety and protection is carried out at the expense of the employer and other sources not prohibited by the legislation of the Republic of Kazakhstan.

Employees do not bear the costs for these purposes.

The amount of funds is determined by an employer's act or a collective contract.

## **CHAPTER 18. RIGHTS AND OBLIGATIONS OF EMPLOYEES AND EMPLOYER IN LABOR SAFETY AND PROTECTION AREA**

### **Article 181. Rights and duties of employee in labor safety and protection area**

1. The employee has the right to:

- 1) a workplace equipped in accordance with the requirements for safety and labor protection;
- 2) sanitary facilities, means of individual and collective protection in accordance with the requirements for safety and labor protection, as well as labor, collective contracts;
- 3) apply to the local labor inspectorate to conduct a survey of labor conditions and safety at the workplace;
- 4) participate personally or through a representative in examination and consideration of issues related to improvement of conditions, safety and labor protection;
- 5) refuse to perform work if the employer does not provide the employee with the means of individual and (or) collective protection and in case of a situation that poses a threat to his health or life, with a written notification of the direct manager or employer about it;
- 6) education and professional training necessary for the safe performance of labor duties, in accordance with the procedure set up by the legislation of the Republic of Kazakhstan;
- 7) obtain reliable information from the employer about characteristics of the workplace and territory of the organization, the conditions, safety and labor protection, the existing risk of damage to health, as well as measures to protect it from harmful and (or) dangerous production factors;
- 8) preservation of average wages for the period of suspension of work of the organization due to non-compliance with the requirements for safety and labor protection.

2. The employee must:

1) comply with the requirements of norms, regulations and instructions for safety and labor protection;

2) immediately notify the employer or the organizer of the work of every industrial injury and other damage to the health of workers, signs of occupational disease (poisoning), as well as a situation that poses a threat to life and health of people;

3) undergo mandatory preliminary and periodic medical examinations, as well as pre-shift, post-shift and other medical examinations in accordance with the procedure established by the authorized body in health care area;

4) at the request of the employer, take preventive medical examinations in cases stipulated by the employer's act, as well as when transferring to another job;

5) inform the employer about establishment of a disability or other deterioration of the state of health, which prevents continuation of labor duties;

6) strictly apply and use as intended the means of individual and collective protection provided by the employer;

7) fulfill requirements of the state labor inspector, technical inspector for labor protection, internal control specialists and medical and health measures prescribed by medical institutions;

8) undergo training, instructing and testing knowledge on labor safety and protection in the manner prescribed by the employer and stipulated by the legislation of the Republic of Kazakhstan.

## **Article 182. Rights and duties of the employer in labor safety and protection area**

1. The employer has the right to:

1) encourage employees for assistance in creating favorable working conditions in the workplace, rationalizing proposals for creation of safe working conditions;

2) suspend from work and bring to disciplinary responsibility the employees who violate requirements for labor safety and protection in accordance with the procedure established by this Code;

3) require the employee to strictly observe requirements for the safe conduct of work in production;

4) send employees at their own expense to preventive medical examinations in cases provided for by the legislation of the Republic of Kazakhstan and the employer's act.

2. The employer is obliged to:

1) take measures to prevent any risks at workplaces and in technological processes by taking preventive measures, replacing production equipment and technological processes with safer ones;

2) conduct training, instructing, testing knowledge of employees on labor safety and protection issues, and provide documents for the safe conduct of the production process and work at their own expense;

3) organize training and testing of knowledge on labor safety and protection of managers and persons responsible for ensuring labor safety and protection at work, periodically at least once every three years in organizations that carry out professional development of personnel, in accordance with the procedure established by the authorized body for labor, according to the list approved by the employer's act;

4) create the necessary sanitary and hygienic conditions for the workers, provide the issuance and repair of special clothes and footwear for employees, provide them with preventive treatment, detergents and disinfectants, a medical first-aid kit, milk or equivalent foods, and (or) specialized products for dietic (curative and preventive) nutrition, the means of individual and collective protection in accordance with the norms established by the authorized state body for labor;

5) is excluded by the Law of the Republic of Kazakhstan dated 06.04.2016 № 483-V (shall be enforced upon expiry of ten calendar days after the day of its first official publication);

6) not allow the workers under the age of eighteen to carry and move weight exceeding the established limits for them;

7) prevent women from lifting and moving weights exceeding the limits established for them by hand;

8) register, record and analyze occupational accidents and occupational diseases;

9) once a quarter, provide the authorized state body for labor and the local labor inspectorate, representatives of employees, upon their written request, with the necessary information to monitor the state of conditions, safety and labor protection;

10) ensure investigation of accidents related to work activity, in accordance with the procedure established by the legislation of the Republic of Kazakhstan;

11) fulfill instructions and conclusions of state labor inspectors;

12) with participation of representatives of employees, conduct a periodic, at least every five years, attestation of production facilities for working conditions in accordance with the rules approved by the authorized state body for labor;

13) present the results of attestation of production facilities for working conditions to the relevant local labor inspectorate in paper and electronic media within a month;

14) insure the employee against accidents in performance of his labor (official) duties;

15) take urgent measures to prevent development of an emergency situation and the impact of traumatic factors on other persons;

16) develop, approve and revise the instructions on labor safety and protection in accordance with the procedure established by the authorized body for labor;

17) at own expense, conduct mandatory, periodic (during working life) medical examinations and pre-shift, post-shift medical examination of employees in cases stipulated in the agreement, collective contract, legislation of the Republic of Kazakhstan, as well as when transferring to another job with changes in working conditions or when signs of occupational disease appear.

## **CHAPTER 19. ORGANIZATION OF LABOR SAFETY AND PROTECTION**

### **Article 183. Attestation of production facilities for working conditions**

1. Production facilities are subject to obligatory periodic attestation on working conditions.

2. Attestation of production facilities for working conditions is carried out by specialized organizations for attestation of production facilities from time to time at least every five years.

3. The procedure for mandatory periodic attestation of production facilities for working conditions is determined by the authorized state body for labor.

4. An extraordinary attestation of production facilities for working conditions shall be carried out at the request of the body of state control and supervision over labor safety and protection in case of revelation of violation of the procedure for attestation of production facilities for working conditions.

The results of the extraordinary attestation of production facilities for working conditions are documented in the form of an attachment to the materials of the previous attestation of the production facility on working conditions.

5. To organize attestation of production facilities for working conditions, the employer issues an appropriate order to establish an attestation commission consisting of the chairman, members and secretary responsible for drawing up, maintaining and storing documentation on attestation of production facilities for working conditions.

6. Composition of an attestation commission includes the head or his deputy, specialists of the security and labor protection services and other units upon agreement, as well as representatives of employees.

Refusal of representatives of employees to participate in an attestation commission is not the grounds for not conducting attestation of production facilities for working conditions.

7. After completion of attestation of production facilities for working conditions, a specialized organization for attestation of production facilities within ten calendar days shall send information on its results to the authorized state body for labor in accordance with the procedure established by it.

8. Results of attestation of production facilities for working conditions come into force from the moment of issuance of the attestation act of the production facility.

9. State labor inspectors control the compliance with the procedure for attestation of production facilities.

#### **Article 184. Safety requirements for workplaces**

1. Buildings (structures) in which workplaces are located, should correspond to their functional purpose and meet the requirements of safety and labor protection.

2. The working equipment must comply with the safety standards established for this type of equipment, have appropriate technical passports (certificates), warning signs and be provided with fences or protective devices to ensure the safety of workers in the workplace.

3. Emergency routes and exits of workers from the premises should be indicated, remain free and lead to the open air or to a safe area.

4. Dangerous areas should be clearly marked. If workplaces are located in dangerous areas in which, due to the nature of work, there is a risk to the worker or falling objects, such places should be equipped with devices that block access for strangers to these areas.

On the territory of the organization the pedestrians and technological vehicles must move in safe conditions.

5. During working hours, the temperature, lighting, as well as ventilation in the room where the workplaces are located, must meet the sanitary and epidemiological requirements.

#### **Article 185. Compulsory medical examination of workers**

1. The employer, at the expense of his own funds, must organize periodic medical examinations and inspections of workers engaged in heavy work, work with harmful and (or) dangerous working conditions, in the manner prescribed by the legislation of the Republic of Kazakhstan.

2. Workers engaged in work associated with increased danger, machinery and mechanisms must undergo pre-shift and post-shift medical examination. The list of professions requiring a pre-shift and post-shift medical examination is determined by the authorized health care body.



## **CHAPTER 20. INVESTIGATION AND RECORD OF ACCIDENTS RELATED TO WORK ACTIVITY**

### **Article 186. General provisions of investigation and record of accidents related to work activity**

1. In accordance with this Code, the cases of damage to the health of employees related to their work activities and leading to disability or death shall be subject to investigation, as well as:

- 1) persons studying in educational institutions, when they pass professional practice;
- 2) servicemen, employees of special state bodies involved in performance of work not related to passage of military service, service in special state bodies;
- 3) persons involved in labor in custodial settings and on the verdict of a court;
- 4) personnel of paramilitary and other specialized professional rescue services and formations in civil protection area, paramilitary security, members of voluntary teams for liquidation of consequences of accidents, natural disasters, for saving human life and property.

2. The following is subject to be recorded as accidents related to work activity, damage to the health of employees associated with performance of labor duties, or the conduct of other actions at their own initiative in the interests of the employer, leading to disability or death if they occurred:

- 1) before or after the start of the working time in preparation and putting in order of the workplace, tools of production, personal protective items and other actions;
- 2) during working hours at the workplace, along the route of the employee whose activity is related to movement between the service facilities, including at the request of the employer, and also during the business trip in performance of labor duties;
- 3) when travelling to the place of work or from work on a vehicle provided by the employer;
- 4) on a personal vehicle with the written consent of the employer for the right to use it for business purposes;
- 5) when committing actions at his own initiative in the interests of the employer;
- 6) on the route of those, working on rotational basis from the place of collection (residence during the watch period) to work or vice versa on a vehicle provided by the employer.

3. The following is not subject to be recorded as accidents related to work activities, damage to the health of workers, during the investigation of which it is objectively found that they occurred:

1) when, at his own initiative, the affected person performed work or other actions that are not part of the employee's functional duties and are not related to the employer's interests, including during the inter-shift rest during rotational work, break for rest and food intake;

2) in the case when the main cause was the state of alcohol intoxication, the use of toxic and narcotic substances (its analogues) by the affected person;

3) as a result of deliberate (intentional) infliction of harm to one's health, as well as in the case of committing a criminal offense by the affected person;

4) due to a sudden deterioration in the health of the affected person, not related to the impact of production factors, confirmed by medical conclusion.

4. Investigation of cases of occupational diseases is conducted by the employer together with the state body in the field of sanitary and epidemiological welfare of the population.

5. within two working days, the responsible officials of health care organizations should notify employers and the local labor inspectorate about each case of initial appeal about the work-related injury or injury to workers, related to work, and also about the cases of acute occupational disease (poisoning) to the state body in the field of sanitary and epidemiological welfare of the population.

6. The employer is responsible for organizing investigation and recording of accidents, related to work activities and occupational diseases at production site.

#### **Article 187. Obligations of the employer in investigation of work-related accidents**

1. The employer is obliged to:

1) organize provision of first aid to the affected person and, if necessary, his delivery to the healthcare organization;

2) keep the situation at the scene of the accident related to work activity (the condition of equipment and machinery, tools) in the same condition as it was at the time of the incident, provided that it does not endanger the life and health of others, and violation of continuity of the production process will not lead to an accident, and also take a photograph of the place of the accident;

3) immediately inform the close relatives of the affected person about the accident and send a message to the state bodies and organizations specified in this Code and other normative legal acts;

4) admit members of the commission for special investigation to the scene of an accident to investigate an accident related to work.

2. The employer immediately within 24 hours informs about the accident related to the work activity, in the form established by the authorized state body for labor:

1) to the local labor inspectorate;

2) to the territorial subdivision of the authorized body in the field of industrial safety in case of accidents occurring at dangerous production facilities;

3) to the territorial subdivision of the state body in the field of sanitary and epidemiological welfare of the population about the cases of occupational disease or poisoning;

4) representatives of employees;

5) insurance organization, with which a contract was concluded for insurance of an employee against accidents in performance of his labor (official) duties;

6) law enforcement body at the place where the accident occurred and the authorized bodies of production and departmental control and supervision in cases that are subject to special investigation.

3. When investigating an accident related to work activities, at the request of the commission, the employer, at the expense of its own funds, provides for:

1) performance of technical calculations, the conduct of laboratory research, testing, other expert works and involvement of experts for these purposes;

2) photographing the scene of the accident and damaged objects, drawing up plans, sketches, schemes;

3) provision of transport, office space, communications, special clothing and other personal protective items necessary for investigation;

4) provision of:

documents characterizing the state of the workplace, the presence of harmful and (or) dangerous production factors (plans, sketches, schemes, and if necessary - photo and video materials of the scene and others);

extracts from the logs of registration of briefings and protocols for testing the knowledge of the affected persons about the occupational safety and labor protection, protocols of interviews with eyewitnesses of the accident related to work activities and officials, explanations of injured persons, expert opinions of specialists;

results of laboratory studies and experiments;

medical conclusion about the nature and severity of damage caused to the health of the affected person, or the cause of his death, about the presence (absence) of signs of alcohol, narcotic or toxic intoxication;

copies of documents confirming the issuance of special clothes and other personal protective items to the affected person;

extracts from the orders of state labor inspectors and officials of the territorial body of state supervision issued earlier at this facility (object) (if an accident related to work activity occurred in an organization or on an object controlled by this body);

other documents related to consideration of the case, at the discretion of the commission.

### **Article 188. Order of formation and composition of a commission for investigation of accidents related to work activity**

1. Investigation of work-related accidents, except for the cases subject to special investigation, is carried out by the commission established by the employer's act within twenty-four hours from the receipt of the conclusion on the severity of work injury, in the following composition:

1) chairman - the head of the organization (production service) or his deputy, and in their absence - the authorized representative of the employer;

2) members - the head of the organization's security and labor protection services and the representative of employees.

2. An official directly responsible for occupational safety at the relevant site where an accident related to work activity occurred shall not be included in the commission during an investigation.

3. The following shall be subject to special investigation:

1) accidents related to work activities, with severe or fatal consequences;

2) group accidents related to work activities that occurred simultaneously with two or more workers, regardless of the severity of the injuries to workers;

3) group cases of acute poisoning.

4. A special investigation into a work-related accident shall be carried out by a commission established within twenty-four hours by the local labor inspectorate from the moment of receiving an opinion on the severity of the work injury, in the following composition:

1) chairman - state labor inspector;

2) members - the employer and the employees' representative.

Investigation of group accidents related to work activities, in which two people died, is carried out by a commission headed by the chief state labor inspector of the region, a city of republican significance, the capital.

Investigation of group accidents related to work activities, in which three to five people were killed, is carried out by a commission established by the authorized state body for labor, and with the death of more than five people - by the Government of the Republic of Kazakhstan.

5. When investigating accidents related to work activities that occurred in emergency situations of anthropogenic nature due to an accident at a dangerous production facility, a representative of the authorized body in the field of industrial safety or its territorial subdivision is appointed as the chairman of the commission. In this case, the state labor inspector is a member of the commission.

6. The commission also includes:

1) in case of accidents related to labor activity, occurred at dangerous production facilities, as well as in organizations of the electric power industry, - the state inspector for state supervision in the field of industrial safety and an official who exercises state energy supervision and control;

2) in case of acute poisoning - representatives of the state body in the field of sanitary and epidemiological welfare of the population;

3) in case of an accident related to work activity that occurred with an employee of an organization located and conducting work in the territory of another organization, or with an employee sent to another organization to perform a production assignment (official or contractual duties), - the responsible representative of the organization in the territory of which there was an accident.

7. A representative of an insurance organization having corresponding contractual relations with the employer or the affected person has the right to participate in the work of the commission.

8. An investigation of a work-related accident at the employer – individual involves the employer or its authorized representative, a representative of workers, a labor protection specialist, who may be involved in investigation of an accident and on a contractual basis.

9. In order to resolve issues requiring an expert opinion, the chairman of the commission for special investigation has the right to set up expert sub-committees from among specialists of research organizations and control and supervisory bodies at the expense of the employer.

## **Article 189. Procedure for investigating accidents related to work activity**

1. Period of investigation of an accident related to work activity shall not exceed ten working days from the date of the commission's establishment.

In the event of circumstances that objectively impede completion of the investigation within the established time limits, the investigation time can be extended by a protocol decision of the commission for ten working days no more than two times.

2. Accidents related to work activities that have not been timely notified to the local labor inspectorate are investigated at the request of the affected person or his authorized representative within ten working days from the date of registration of the application.

3. In each case of investigation, the commission identifies and interviews eyewitnesses of the incident, persons who have committed violations of the requirements for safety and labor protection, receives the necessary information from the employer and, if possible, an explanation from the affected person.

4. It is strictly forbidden, without the consent of the chairman of the commission for special investigation, to conduct a survey of witnesses, eyewitnesses, as well as parallel investigations of this work-related accident, by someone or another commission on the days of work of the officially appointed commission.

5. Based on the collected documents and materials, the commission determines the circumstances and causes of the accident related to work activity, determines the relationship of the accident to the employer's production activities and, accordingly, whether the affected person's stay at the scene of the accident was related to performance of his work duties, qualifies the accident as the work-related accident, or as an accident not related to work activity, identifies individuals, who admitted violations of labor safety and protection requirements, and measures to eliminate the causes and prevent accidents related to work.

6. Investigation of a work-related accident with a severe or fatal result, a group accident that occurred simultaneously with two or more workers, regardless of the severity of the injuries of the affected persons and the group case of acute poisoning of workers, is documented by an act of special investigation in the form, established by the authorized state body for labor.

7. Investigation of accidents related to work activities that occurred as a result of vehicle accidents is carried out on the basis of the investigation materials of the authorized body for traffic safety.

8. The authorized body for traffic safety within five days from the day of the transport incident, upon the request of the chairman of the commission for investigating accidents related to work activities, is obliged to submit copies of the investigation materials.

9. The working conditions of the commission for investigation of work-related accidents at the site facilities are determined taking into account the specifics of access for the stay at these facilities.

10. Completion of the search for the affected person (affected persons), missing person (lost) as a result of the explosion, accidents, destruction, fire and other events at the facilities of the organization is determined by the commission for special investigation on the basis of the conclusion of the head of rescue service or formation and experts.

### **Article 190. Order of registration of investigation materials of accidents related to work activity, and their record**

1. Every work-related accident that caused the worker (s) to suffer a disability in accordance with a medical opinion (recommendation) shall be investigated.

Accidents related to work activity, with severe, fatal consequence and group accidents are subject to special investigation.

Forms of acts of investigation, special investigation and the form of acts on the accident related to work activity, occupational disease are established by the authorized body for labor.

2. The act must be documented in accordance with the materials of the investigation.

If during the investigation of an accident related to work activity, the commission found that gross negligence caused the occurrence or increase of harm, the commission applies the mixed responsibility of the parties and determines the degree of fault of the employee and employer in percent.

In the event that one of the members of the commission investigating a work-related accident does not agree with the findings of the commission (majority), he submits in writing his reasoned opinion for inclusion in the investigation material. He signs the act of a special investigation with the reservation "see a special opinion."

3. In case of disagreement with the result of the investigation or untimely documentation of the act on the accident related to work activity, the affected person or his agent, the employees' representative have the right to apply to the employer in writing, who is obliged to consider their application within ten days and take a decision on the merits.

4. Disagreements on the investigation issues, documentation and registration of work-related accidents between the employer, the employee and the state labor inspector or the state inspector for state supervision in the field of industrial safety in the cases that occurred at hazardous production facilities are considered in the order of subordination to the corresponding superior chief state labor inspector and (or) in court.

The decision of the superior chief state labor inspector on investigation of work-related accidents is made in the form of an opinion in the form established by the authorized state body for labor.

5. The investigation materials of the accident related to work activity, along with the act of investigation, should contain:

1) information on training, passed by the affected person and instruction in labor protection, as well as preliminary and periodic medical examinations;

2) protocols of interviews in the form established by the authorized state body for labor and eyewitnesses' explanations of the incident, as well as officials responsible for compliance with labor safety and protection requirements;

3) plans, schemes and photographs of the scene;

4) extracts from instructions, regulations, orders and other acts regulating labor safety and protection requirements, duties and responsibilities of officials for ensuring healthy and safe working conditions at work, and others;

5) a medical report on the nature and severity of damage to the health of the affected person (cause of death);

6) the results of laboratory and other studies, experiments, expertise, analyzes, and others;

7) conclusion (if any) of the chief state labor inspector;

8) information on material damage caused to the employer;

9) the employer's order to compensate the affected person (members of the family) for damage caused to health and to bring the officials responsible for the admitted case to liability;

10) list of attached documents.

6. At the end of investigation of every accident related to work activity, in accordance with the investigation materials, the employer must, within three working days, draw up an act on the accident.

7. The act of occupational disease in the prescribed form is filled by the employer on the basis of the conclusion of the expert occupational pathology commission.

8. The act on the accident shall be filled and signed by the heads of the security and labor protection services and the organization's sub-division, the representative of the organization's employees in cases of poisoning, also signed by the representative of the state body in the field of sanitary and epidemiological welfare of the population.

The act on the accident is approved by the employer and certified by the seal of the organization (if any).

If the employer is an individual, the act on the accident is filled and signed by the employer and certified by a notary.



9. Not later than three working days after the end of the investigation, one copy of the act on the accident shall be issued to the affected person or his agent, in addition, shall be sent to:

1) an insurance organization, with which a contract was concluded for insurance of an employee against accidents in performance of his labor (official) duties;

2) the local labor inspectorate on paper and electronic media;

3) the state body in the field of sanitary and epidemiological welfare of the population in case of poisoning.

10. Copies of materials of the special investigation of the accident related to work activity are submitted by the employer to the local labor inspectorate. At the end of investigation of the accident related to work activity, copies of materials of the special investigation by the state labor inspector are sent to the local internal affairs body within seven days, which in accordance with the legislation of the Republic of Kazakhstan takes the appropriate decision and notifies about the decision taken not later than twenty working days.

11. The affected person or employees' representative has the right to familiarize with all the materials of the investigation of the accident related to work activity and to make the necessary extracts.

12. Each accident documented by the act is entered by the employer in the log of accidents related to work activity and other health injuries at work. The log is maintained according to the form established by the authorized state body for labor. Primary statistical data on temporary disability and occupational injuries are presented in accordance with the statistical methodology approved by the authorized body in state statistics area.

13. The materials of investigation of the accident related to work activity are to be kept in the organization (employer) for forty-five years, in case of its liquidation, the materials of the investigation of the accident must necessarily be submitted to the state archive at the place of its activity.

14. The employer or his representative informs the relevant local labor inspectorate about work-related accidents that have passed into the category of severe or fatal accidents over the time, and about insurance cases - to the insurance organization.

## **SECTION 5. CONTROL OF COMPLIANCE WITH LABOR LEGISLATION OF THE REPUBLIC OF KAZAKHSTAN CHAPTER 21. STATE CONTROL OF COMPLIANCE WITH LABOR LEGISLATION OF THE REPUBLIC OF KAZAKHSTAN**

### **Article 191. Implementation of state control over compliance with the labor legislation of the Republic of Kazakhstan**

1. State control over compliance with labor legislation of the Republic of Kazakhstan is exercised by state labor inspectors.

2. State labor inspectors are:

1) Chief state labor inspector of the Republic of Kazakhstan - an official of the authorized state body for labor;

2) chief state labor inspectors - officials of the authorized state body for labor;

3) chief state labor inspector of the region, the city of the republican significance, the capital - the head of the local labor inspectorate of the region, the city of the republican significance, the capital;

4) state labor inspectors - officials of the local labor inspection body of the region, the city of the republican significance, the capital.

3. State labor inspectors in performance of official duties are protected by law and are guided by the Constitution of the Republic of Kazakhstan, laws and other normative legal acts of the Republic of Kazakhstan.

4. Persons who obstruct the state labor inspector to perform his official duties are liable in accordance with the laws of the Republic of Kazakhstan.

5. The state control over compliance with the labor legislation of the Republic of Kazakhstan is carried out in the form of inspection and other forms of control.

6. Inspection is carried out in accordance with the Entrepreneurship Code of the Republic of Kazakhstan, unless otherwise provided for by international treaties ratified by the Republic of Kazakhstan.

Inspections conducted by state labor inspectors in the investigation of accidents related to work activities, as well as control over implementation of measures to eliminate the reasons that caused these cases, and other forms of control with a visit to the subject of control are conducted without prior notification to the employer and are not subject to registration and recording in accordance with the legislation of the Republic of Kazakhstan on state legal statistics and special records.

### **Article 192. Principles of activity and main tasks of state labor inspection**

Activity of the state labor inspection is carried out on the basis of the principles of respect for, observance and protection of workers' rights and freedoms, legality, objectivity, independence and publicity.

The main tasks of the state labor inspection are:

1) provision of state control over compliance with the labor legislation of the Republic of Kazakhstan;

2) ensuring observance and protection of the rights and freedoms of employees, including the right to safe working conditions;

3) consideration of applications, claims and complaints of employees and employers on labor legislation of the Republic of Kazakhstan.

### **Article 193. The rights of state labor inspectors**

When exercising state control over compliance with the labor legislation of the Republic of Kazakhstan, state labor inspectors have the right:

1) to visit organizations and enterprises without hindrance in order to conduct inspections of compliance with the labor legislation of the Republic of Kazakhstan;

2) to exercise other forms of control with a visit to the subject of control;

3) to request and receive from employers, employees (their representatives) the documents, explanations, information necessary for performance of the functions assigned to them;

4) to issue instructions and conclusions binding on employers, as well as to draw up protocols and decisions on administrative offenses, to impose administrative penalties;

5) to give explanations on the issues falling within their competence;

6) to suspend (prohibit) the activities of organizations, individual productions, workshops, sites, workplaces and operation of equipment, mechanisms, if they are found to be inconsistent with the requirements of normative legal acts on labor safety and protection for a period not exceeding three days, with mandatory presentation of a statement of claim within the specified period to court;

7) to prohibit the issuance and use in the workplace of special clothing and other means of individual and collective protection that do not meet the requirements established for them;

8) to withdraw samples of special clothing for analysis, the used or processed materials and substances, with notification of the employer (his representative) and drawing up of a relevant act;

9) to investigate accidents related to work in an established manner;

10) to issue orders binding on employers to suspend workers from work who have not passed training, instructing, testing of knowledge on labor safety and protection issues, as well as to bring the perpetrators to liability;

11) to submit information, lawsuits and other materials to the appropriate law enforcement agencies and courts, on the facts of violations of the labor legislation of the Republic of Kazakhstan, non-fulfillment by employers of the acts of state labor inspectors;

12) to participate in testing of knowledge on safety and labor protection;

13) to conduct a check for employers' compliance with procedures and conditions for attracting foreign labor, established by the legislation of the Republic of Kazakhstan on employment and the legislation of the Republic of Kazakhstan in the field of population migration;

14) to control completeness and reliability of the employer's internal control over labor safety and protection;

15) to interact with citizens and representatives of employees when exercising state control over compliance with the labor legislation of the Republic of Kazakhstan;

16) to exercise other rights provided for by the legislation of the Republic of Kazakhstan.

#### **Article 194. Duties of state labor inspectors**

State labor inspectors are obliged to:

1) control compliance with labor legislation of the Republic of Kazakhstan;

2) timely and qualitatively carry out inspections to comply with labor legislation of the Republic of Kazakhstan;

3) inform employers (their representatives) about the revealed violations of the labor legislation of the Republic of Kazakhstan to take measures to eliminate them;

4) timely consider the appeals of employees and employers on the application of labor legislation of the Republic of Kazakhstan;

5) identify the causes and circumstances that lead to violations of the labor legislation of the Republic of Kazakhstan, provide recommendations on their elimination and restoration of violated labor rights;

6) take part in investigation of accidents related to work activity;

7) collect, analyze and summarize the causes of violations of labor legislation, participate in development and adoption of measures aimed at strengthening work to prevent violations of labor legislation of the Republic of Kazakhstan;

8) not disclose information constituting state secrets, official, commercial or other secret protected by law, which they learnt in connection with performance of their duties;

9) conduct explanatory work on application of labor legislation of the Republic of Kazakhstan.

### **Article 195. Acts of state labor inspector**

1. Depending on the revealed violations of the labor legislation of the Republic of Kazakhstan, the state labor inspector shall issue (make) the following acts:

1) instruction:

on elimination of violations of the requirements of labor legislation of the Republic of Kazakhstan;

on conducting preventive work on labor safety and protection at production facilities and equipment, as well as in production processes to prevent occurrence of traumatic and emergency situations;

on prohibition (suspension) of operation of individual productions, shops, plots, workplaces and equipment and activities of the organization as a whole.

At that, the act on prohibiting (suspending) the activities of the organization is valid until a court decision is made;

2) a protocol on an administrative offense;

3) the decision to terminate proceedings on the case on an administrative offense;

4) the decision on the case on an administrative offense;

5) the conclusion of the state labor inspector.

2. Acts of the state labor inspector are the legal measures against violations of the labor legislation of the Republic of Kazakhstan by employers and officials. Acts are made in two copies, one of which is handed to the employer against the signature.

3. Acts of the state labor inspector are mandatory for execution by officials, individuals and legal entities.

4. The form of acts of the state labor inspector is approved by the authorized state body for labor.

### **Article 196. Interaction of the state labor inspectorate with other state bodies and organizations**

1. The state labor inspectorate carries out its activities in cooperation with other state bodies of supervision and control, with representatives of employees, public associations, and other organizations.

2. State bodies are obliged to assist the state labor inspector in fulfilling tasks to monitor compliance with the labor legislation of the Republic of Kazakhstan.

#### **Article 197. Other forms of control with a visit to a subject of control**

1. Visiting the subject of control is another form of control over compliance with the labor legislation of the Republic of Kazakhstan.

2. The state labor inspector, when visiting a subject of control, must present:

1) official ID;

2) if necessary, the permission of the competent body to visit the facilities;

3) medical admission, the presence of which is necessary for visits to facilities, issued in accordance with the procedure established by the authorized body in health care area.

3. The subjects of control when visited by a state labor inspector are obliged:

1) to ensure unhindered access of the state labor inspector to the territory and premises of the subject of control;

2) in compliance with the requirements for protection of commercial, tax or other secrets, to provide documents (information) on paper and electronic media or their copies for inclusion in the act on the results of the visit in accordance with the objectives and subject of the visit;

3) to make a note of receipt on the second copy of the act on the results of the visit;

4) to ensure the safety of persons who came to visit the site from harmful and (or) dangerous production factors in accordance with the standards established for this facility.

4. In the event of preventing access to the state labor inspector, a protocol is drawn up and signed by the state labor inspector conducting the visit and by the authorized person of the subject of control.

5. The visit is carried out during the working hours of the subject of control, established by the rules of the labor schedule.

6. The period of visit to the subject of control shall not exceed three working days.

7. Based on the results of the visit to the subject of control by the state labor inspector, an act on the results of the visit in duplicate is compiled with a mandatory explanation to the subject of control of the procedure for eliminating the violations identified as a result of the visit.

The act on the results of the visit includes:

1) the date, time and place of drawing up the act;

2) the name of the control body;

3) surname, name, patronymic (if it is indicated in the ID) of the state labor inspector who conducted the visit;

4) the name or surname, name, patronymic (if it is indicated in the identity document) of the visited subject of control, the position of the representative of the individual or legal entity who attended the visit;

5) the date, place and period of visit;

6) information on the results of the visit, including on the violations revealed, about their nature;

7) information on familiarization or refusal to familiarize with the act of the representative of the visited subject of control, as well as the persons present at the visit, their signatures or refusal to sign;

8) signature of the state labor inspector who conducted the visit.

8. If there are comments and / or objections to the results of the visit, the individual or the head of the legal entity or their representatives shall state them in writing.

Comments and (or) objections are attached to the act on the results of the visit, as indicated by the corresponding note.

9. One copy of the act on the results of the visit shall be given to an individual or to the head of a legal entity or their representatives for familiarization and taking measures to eliminate the revealed violations and other actions.

10. In order to eliminate violations of the requirements of the labor legislation of the Republic of Kazakhstan, an instruction is issued to the subject of control without initiating a case on an administrative offense.

11. According to the violations revealed by the visit, the subject of control is obliged to provide information about the measures taken to eliminate the violations revealed not later than ten working days from moment of receipt of the instruction.

12. State labor inspectors are obliged in the book of visits and inspections (if any) of the inspected subject to make an entry about the activities carried out, indicating the names, positions and data set forth in the act.

13. In case there are no violations of the requirements established by the legislation of the Republic of Kazakhstan, an entry is made in the act on the results of the visit, the instruction is not issued.

14. When visiting a subject of control, preliminary notification of the employer and registration in the authorized body on legal statistics and special records are not required.

15. Visits to the subject of control shall be carried out on the basis of criteria approved jointly by the authorized state body for labor and the authorized body on entrepreneurship and lists of visits to the subject of control formed for the quarter (half year, year) based on the results of the conducted analysis and evaluation.

#### **Article 198. Procedure for appealing decisions, actions (inaction) of the state labor inspector exercising state control**

1. In the event of violation of the rights and legitimate interests of the employer when exercising state control over compliance with the labor legislation of the Republic of Kazakhstan, the employer has the right to appeal against the actions (inaction) of the state labor inspector to a higher state inspector and (or) to the court in the manner established by the legislation of the Republic of Kazakhstan.

2. The Chief state labor inspector of the Republic of Kazakhstan or the Chief state labor inspector of the region, city of the republican significance, the capital has the right to suspend execution, to cancel or revoke acts of a lower state labor inspector before the decision on the application (complaint) of individual and (or) legal entities against actions (inaction) or acts is made.

#### **Article 199. Departmental record**

The state labor inspectorate, on a regular and continuous basis, is obliged to keep departmental records of the number of inspections of the inspected subjects (objects) and other forms of control and supervision with visits, as well as violations revealed in accordance with the checklists and administrative measures taken to them.

Summary data of departmental reports are posted monthly on official Internet resources of central and local executive bodies.

#### **Article 200. Declaring of the employer's activity**

Declaring the employer's activities is carried out by the local labor inspectorate in conjunction with the regional associations of employers and territorial associations of trade unions.



The condition for participation of employers in the declaring is the compliance of the parameters of their activities with the requirements of the labor legislation of the Republic of Kazakhstan.

Employers whose activities are recognized as meeting the requirements of the labor legislation of the Republic of Kazakhstan are given a certificate of trust for a period of three years, which is taken into account in formation of selective inspections and other forms of control with visits to the subject of control established by this Code.

## **CHAPTER 22. INTERNAL CONTROL**

### **Article 201. Internal control on labor safety and protection**

1. Internal control on labor safety and protection includes organization of establishment and introduction of a system for managing safety, monitoring the state of the working conditions, conducting operational data analysis of production control, assessing risks and taking measures to eliminate the detected inconsistencies with the requirements for safety and labor protection.

2. Internal control on labor safety and protection is carried out by the employer in order to comply with the established requirements for labor safety and protection in the workplace and to take immediate measures to eliminate the revealed violations.

### **Article 202. Mechanism of implementation of internal control on labor safety and protection**

1. In order to exercise internal control over compliance with labor safety and protection requirements in organizations carrying out productive activities with the number of more than fifty employees, the employer establishes a labor safety and protection service that reports directly to the first head of the organization or to the person authorized by him.

2. A standard provision on the labor safety and protection service in the organization is developed by the authorized state body for labor.

3. The employer with a staff of up to fifty people introduces the position of a specialist in labor safety and protection taking into account the specifics of the activity or the responsibility for ensuring labor safety and protection is assigned to another specialist.

4. The labor safety and protection service or the specialist specified in paragraph 3 of this article shall have the right:

1) to visit and inspect production, household and other premises without hindrance;

2) to monitor development and fulfillment of preventive measures to create safe and healthy working conditions, prevent occupational injuries and occupational diseases in the structural units of the organization;

3) to issue the binding instructions on taking measures to eliminate the revealed violations of labor safety and protection to the employees of the structural divisions of the organization.

5. The labor safety and protection service or a specialist specified in paragraph 3 of this article shall be obliged:

1) to monthly analyze the state and causes of occupational injuries and occupational diseases in the organization, develop preventive measures and incorporate them into electronic databases of the organization for permanent storage;

2) to organize training, testing of knowledge on labor safety and protection issues for employees of the organization;

3) to ensure compliance with the procedure for investigating accidents related to work activities.

6. Organization of labor safety and protection for small businesses can be carried out on a contractual basis with individuals or legal entities.

### **Article 203. Employee council on labor safety and protection in organizations**

1. At the initiative of the employer and (or) at the initiative of employees or their representatives, an employee council on labor safety and protection is established. Its composition on a parity basis includes representatives of the employer, representatives of employees, including technical labor inspectors.

2. The composition of the employee council on labor safety and protection is approved by a joint decision of the employer and representatives of employees.

3. The employee council on labor safety and protection is headed by a chairman elected by the members of the council from among the representatives of the employer and employees on a rotational basis, with a periodicity of two years.

Decisions of the employee council on labor safety and protection are mandatory for the employer and employees.

4. The employee council on labor safety and protection organizes joint actions of the employer and employees to ensure the requirements of labor protection, prevention of occupational injuries and occupational diseases, and also organizes inspections of labor conditions and protection at workplaces by technical labor inspectors.

Candidates of technical inspectors for labor protection are offered by the trade union, and in case of its absence - by the general meeting of employees from among the employees of the organization by a majority of votes with the presence of at least two-thirds of the employees.

5. Technical inspectors for labor protection are approved by the decision of the employee council for safety and labor protection.

The status, rights and duties of technical inspectors for labor protection, as well as the procedure for exercising control by them are determined by the decision of the employee council for safety and labor protection.

## **CHAPTER 23. FINAL PROVISIONS**

### **Article 204. The order of introduction of this Code**

1. This Code shall enter into force on January 1, 2016.

2. To establish that from 1 January 2017:

1) subparagraph 64) of paragraph 1 of Article 1 is effective in the following wording:

"64) specialized organizations for attestation of production facilities - organizations that carry out attestation of production facilities for working conditions, having qualified personnel and having testing laboratories in their composition accredited in accordance with the legislation of the Republic of Kazakhstan;"

2) subparagraph 4) of paragraph 1 of Article 26 is effective in the following wording:

"4) with foreigners and stateless persons temporarily staying on the territory of the Republic of Kazakhstan until the local executive body issues a permission to employ foreign labor or a certificate of qualification for independent employment issued, in accordance with the procedure determined by the authorized body for migration issues, to foreign workers, or before issuance of permission to a labor immigrant issued by the internal affairs bodies in accordance with the procedure established by the Ministry of Internal Affairs of the Republic of Kazakhstan, or without observance of limitations or exceptions established by the laws of the Republic of Kazakhstan;"

3) subparagraph 6) of paragraph 1 of Article 30 is effective in the following wording:

"6) within the terms established by the legislation of the Republic of Kazakhstan for exercising the labor activity by foreign workers arriving for independent employment, the permits, issued by the local executive body for attraction of foreign labor or a permit, issued by the internal affairs bodies to a labor immigrant;"

4) subparagraph 1) of paragraph 1 of Article 57 is effective in the following wording:

"1) when the local executive bodies withdraw their permit to hire foreign workers or the expiry of the validity of the residence permit;"

5) subparagraph 3) of Article 60 is effective in the following wording:

"3) conclusion of an employment contract with foreigners and stateless persons without obtaining certificates of qualifications in accordance with the established procedure for independent employment or a permit to employ foreign labor or without compliance with restrictions or exemptions established by the laws of the Republic of Kazakhstan;"

3. To recognize as invalid from the date of enactment of this Code:

1) The Labor Code of the Republic of Kazakhstan dated May 15, 2007 (Bulletin of the Parliament of the Republic of Kazakhstan, 2007, № 9, art. 65; № 19, art. 147; № 20, art. 152; № 24, art. 178; 2008, № 21, art. 97; № 23, art. 114; 2009, № 8, art. 44; № 9-10, art. 50; № 17, art. 82; № 18, art. 84; № 24, art. 122, 134; 2010, № 5, art. 23; № 10, art. 48; № 24, art. 146, 148; 2011, № 1, art. 2, 3; № 11, art. 102; № 16, art. 128; 2012, № 3, art. 26; № 4, art. 32; № 5, art. 41; № 6, art. 45; № 13, art. 91; № 14, art. 92; № 15, art. 97; № 21-22, art. 123; 2013, № 2, art. 13; № 3, art. 15; № 7, art. 36; № 9, art. 51; № 10-11, art. 56; № 14, art. 72, 75; № 15, art. 78, 81; № 16, art. 83; № 23-24, art. 116; 2014, № 2, art. 10; № 7, art. 37; № 8, art. 44, 49; № 11, art. 67; № 14, art. 84; № 16, art. 90; № 19-I, 19-II, art. 96; № 21, art. 122; № 23, art. 143; 2015, № 1, art. 2; № 3, art. 13; № 7, art. 33; № 8, art. 45; № 10, art. 50; № 11, art. 56; № 14, art. 72; № 15, art. 78);

2) The Law of the Republic of Kazakhstan dated May 15, 2007 "On enactment of the Labor Code of the Republic of Kazakhstan" (Bulletin of the Parliament of the Republic of Kazakhstan, 2007, № 9, Article 66).

*President  
of the Republic of Kazakhstan*

*N. NAZARBAYEV*