
LABOUR CODE OF THE REPUBLIC OF BELARUS
26 July 1999 N 296-Z

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Approved by the Council of the Republic on 30 June 1999

(as amended by Laws of the Republic of Belarus dated 19 July 2005 N 37-Z,
dated 16 May 2006 N 118-Z, dated 29 June 2006 N 138-Z, dated 7 May 2007 N 219-Z,
dated 20 July 2007 N 272-Z, dated 24 December 2007 N 299-Z, dated 6 January 2009 N 6-Z,
dated 12 May 2009 N 19-Z, dated 6 July 2009 N 37-Z, dated 17 July 2009 N 48-Z,
dated 9 November 2009 N 51-Z, dated 31 December 2009 N 114-Z, dated 30 December 2010 N 225-Z,
dated 5 January 2013 N 16-Z, dated 8 January 2014 N 131-Z, dated 24 April 2014 N 134-Z,
dated 1 July 2014 N 171-Z, dated 8 January 2015 N 238-Z, dated 4 June 2015 N 277-Z,
dated 15 July 2015 N 305-Z, dated 24 October 2016 N 439-Z, dated 13 November 2017 N 68-Z,
dated 17 July 2018 N 124-Z, dated 18 July 2019 N 219-Z)

SECTION I
GENERAL PROVISIONS

CHAPTER 1
GENERAL PROVISIONS

Article 1. Basic terms employed in this Code and their definitions

(as amended by the Law of the Republic of Belarus dated 18 July 2019 291-Z)

For the purposes of this Code the following basic terms and their definitions shall be applied:

employment capacity – a type of job in a subordinate capacity with assigned responsibilities prescribed on the basis of the Uniform Employee Qualification Reference Manual or other legislative acts;

labour legislation – the entirety of legal regulatory acts which govern social relations pertaining to labour relations and relations connected with them;

qualification – recognition of acquired knowledge, skills and experience which are required for performing a job and are certified by documentation established by law;

independent contractor agreement – a fixed-term employment contract in written form for performing work over a specific term set by it and which contains specific items in the regulation of labour relations between an employer and an employee;

local regulations – collective contracts, agreements, rules of internal work procedures and other acts which are adopted by established procedures and which regulate labour relations and relations connected with them for a specific employer;

employer – a legal entity or individual person endowed by law with the right to conclude and terminate an employment contract with an employee;

separate subdivision of an organisation – a branch of, representative of, or structural subdivision of an organisation situated either in a locality other than the organisation's or at the organisation's locality and for whose operations the organisation has opened a current (settlement) bank account with the right to distribute funds in that account granted to officers of such separate subdivisions on the basis of a power of attorney;

employers' association – a non-profit organisation formed by the voluntary membership of employers for the representation and protection of their rights and lawful interests in social and labour matters;

single parent – an unmarried mother (father) who is caring for a minor child in the event of the other parent's death, deprivation of parental rights, declaration of legal incompetence, or declaration as deceased or missing; an unmarried mother who is caring for a minor child whose father's information as recorded on the birth certificate has been provided by the mother or by another person applying for the birth certificate; an unmarried adoptive parent caring for a minor child;

trade union – a voluntary public organisation that unites citizens, including those training in vocational and technical institutions or in institutions of higher educations, who are bound together by common interests through their type of occupation, whether industrial or otherwise, in order to protect labour and socio-economic rights and interests;

vocation – a type of occupation that requires knowledge and skills in a given set of jobs that are regulated by the Uniform Tariff and Qualification Guidelines for Jobs and Professions of Workers;

employee – an individual person who has entered into labour relations with an employer on the basis of an executed employment contract;

parties to an employment contract – an employer and an employee;

base wage (base salary) – a minimum amount of wages for an employee to perform work duties for a single unit of time (hour, month) excluding any other payments established in a system of wages;

employment function – work in one or more employment capacities (occupations) with qualifications in accordance with the staffing plan, job (work) instructions, technical specifications and other documents;

employment contract – an agreement between an employee and an employer according to which the employee is obligated to perform a job in one or more employment capacities (occupations) with their corresponding qualifications as specified by the staffing plan and to adhere to internal work procedures; while the employer is obligated to provide the work due according to the contract to the employee, maintain the work conditions that are prescribed by labour legislation, by local regulations and by agreements between the parties and to pay wages to the employee promptly;

duly authorized agent of an employer – the head (their deputies) of an organisation (its separate subdivision), the head of a structural subdivision (their deputies), another employee to whom the employer has delegated the right to take all or some decisions that arise in labour relations and other relations directly connected with them, or another person who is endowed with such a right by law.

The meaning of other terms employed in the Code shall be defined in its respective articles.

Article 2. Basic objectives of the Labour Code

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

The basic objectives of the Labour Code are:

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

- 1) regulating labour relations and relations directly connected with them;
- 2) developing social partnership between employers (their associations), employees (their associations), and governmental administrative bodies;
- 3) establishing and protecting the mutual rights and obligations of employees and employers.

Article 3. Scope of the Labour Code

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

The Labour Code shall apply to the relations between all employees and employers that have concluded employment contracts within the Republic of Belarus, unless specified otherwise by legislative acts or international agreements of the Republic of Belarus.

Article 4. Relations that are regulated by the Labour Code

The Labour Code regulates labour relations that are based on an employment contract and also relations that are connected with:

- 1) vocational training of employees;
 - 2) activities of trade unions and employers' associations;
 - 3) collective bargaining;
 - 4) interactions between employees (their representatives) and employers;
 - 5) providing employment;
 - 6) oversight of compliance with labour legislation;
- (as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)
- 7) government social insurance;
 - 8) considering labour disputes.

Labour relations and relations connected with them that are based on membership (participation) in organisations with any legally constituted form shall be regulated by this Labour Code

and other labour legislation. Other standards (provided that they are not detrimental to the position of members (participants) in organisations in comparison to labour legislation) may be established in the constituent documents and local regulations of such organisations.

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z and 18 July 2019 N 219-Z)

Article 5. Special considerations in the application of the Labour Code to labour relations and relations connected with them to particular categories of employees

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

The Labour Code shall apply to labour relations and relations connected with them for particular categories of employees in such cases and within such limits as are prescribed by special legislative acts that define their legal status.

Article 6. Relations not covered by the Labour Code

Relations not covered by this Labour Code are those that concern implementation of:

1) obligations of members of supervisory and other councils (boards) and also of control bodies of organisations provided that such activity does not go beyond compliance with applicable instructions;

2) obligations that arise from contracts stipulated by civil law;

3) other kinds of activities in accordance with the law.

(point 3 of Article 6 was introduced by the Law of the Republic of Belarus dated 18 July 2019 N-219-Z)

Article 7. Sources for regulation of labour relations and other relations connected with them

The sources for regulation of labour relations and other relations connected with them are:

1) the Constitution of the Republic of Belarus;

2) this Code and other legislative acts concerning labour;

3) collective contracts, agreements and other local regulations that have been entered into and adopted in accordance with the law;

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z and 18 July 2019 N 219-Z)

4) employment contracts.

(point 4 of the first paragraph of Article 7 was introduced by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

Local regulations containing terms that are detrimental to the position of employees in comparison to labour legislation shall be deemed invalid.

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z and 18 July 2019 N 219-Z)

The employer shall have the right to provide additional labour and other guarantees for employees in comparison to labour legislation.

In the event of a contradiction between standards of labour legislation with equal legal force, the standard which contains the most beneficial conditions for employees shall prevail.

Article 8. Interrelation of labour legislation with standards of international law
(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

The Republic of Belarus acknowledges the priority of the generally recognized principles in international rights and shall ensure compliance of labour legislation with them.

In the event that an international agreement of the Republic of Belarus establishes rules other than those contained in this Code, the rules of such international agreement shall prevail.

Article 9. Validity of labour legislation over time

Labour legislation shall not have retroactive force and shall apply to those relations that arise after its entry into force, unless stipulated otherwise by such legislation.

For relations that have arisen prior to the entry into force of acts of labour legislation, such acts shall apply to the rights and obligations that have arisen after those acts have entered into force.

Article 10. Calculation of time spans

The time spans which apply to the inception, modification or expiration of labour relations shall begin on the day following the calendar day which is designated as their beginning, unless this Code stipulates otherwise.

Time spans shall be calculated in periods of the calendar.

Time spans enumerated in years, months and weeks shall expire on the corresponding date of the final year, month or week of such timespans.

Time spans enumerated in calendar weeks, months or days shall be inclusive of non-workdays

If the final day of a time span falls on a non-workday, then the expiration of that time span falls on the next workday to follow.

Article 11. Basic rights of employees

Employees shall have the right to:

1) work as the most suitable means for affirming personal worth, which entails the right to choose a profession, type of occupation and work that suits a person's vocation, capabilities, education and vocational training and also takes into account societal demands as well as safe and healthy work conditions;

2) protection of their economic and social rights and interests, including the right to join trade unions and to conclude collective bargaining contracts and agreements and the right to strike;

3) participate in meetings;

4) participate in the management of organisations;

5) a guaranteed just share of the returns on labour which corresponds to its quantity, quality and social value, but not less than a level that secures a free and decent existence for employees and their families;

6) daily and weekly breaks from work, and in particular for state holidays and celebrations (first paragraph of Article 147) as well as annual leave for at least the time established in this Code;

7) state social insurance, compulsory insurance for accidents on the job and occupational illnesses, guarantees in the event of permanent disability and loss of employment; (point 7 of Article 11 as amended by the Law of the Republic of Belarus dated 8 January N 131-Z)

8) non-interference in personal life and respect for personal worth;

9) judicial and other protection of labour rights.

Article 12. Basic rights of employers

The employer shall have the right to:

1) conclude and terminate employment contracts with employees in the manner and on the grounds established in this Code and legislative acts;

2) enter into collective bargaining and conclude collective bargaining contracts and agreements;

3) create and join employers' associations;

4) provide incentives to employees;

5) require that employees adhere to the terms of an employment contract and to the rules of internal work procedures;

6) hold employees to disciplinary and financial liability in the manner established by this Code;

7) appeal in court for protection of their rights.

Article 13. Prohibition of forced labour

Forced labour is prohibited.

Work shall be deemed forced labour in the event that it is extracted from an employee under threat of coercion, including as:

1) a means of political influence or instruction, whether as a way of punishing the retention or the expression of political views or ideological convictions that contradict the prevailing political, social or economic system;

2) a method for mobilizing and using the workforce for economic development;

3) a means of maintaining work discipline;

4) a punishment for participating in strikes.

Not deemed forced labour:

1) work performed as a consequence of executing the sentence of a court that is under the supervision of governmental agencies that are accountable for the legality of implementing court sentences;

2) work performed which is carried out as prescribed by legislation concerning military service or alternative service or emergency situations.

(as amended by the Law of the Republic of Belarus dated 4 June 2015 N 277-Z)

Article 14. Prohibition of discrimination in labour relations

Discrimination, which is a restriction of labour rights or the receipt of some advantage on grounds of gender, race, national or social extraction, language, religious or political convictions, participation in trade unions or other public associations or lack thereof, property or employment status, age, residential location, disabilities of a physical or mental nature that do not hinder performance of work duties, or other circumstances that are unrelated to fitness for work and not relevant to an employee's specific job functions are prohibited.

(first paragraph of Article 14 as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Discriminatory terms and conditions in collective bargaining contracts and agreements shall be deemed invalid.

Any distinction, exclusion, preference or restriction of the following kinds shall not be regarded as discrimination provided that they are:

1) based on requirements which are essential for performance of a given job;

2) necessitated by the special concern of the state for persons in need of additional social and legal protection (women, minor children, persons with disabilities, persons injured in the Chernobyl nuclear energy plant catastrophe, etc.).

Persons who believe that they have been victims of discrimination in labour relations shall have the right to appeal to court with a plea that the discrimination be eliminated.

Article 15. Labour statistics

ConsultantPlus: comment.

Instructions for filling in state statistics forms for following statistical indicators pertaining to labour were confirmed by Decree of the Ministry of Statistics and Analysis of the Republic of Belarus dated 29 July 2008 N 92.

Labour statistics shall be compiled according to the law and to the Conventions and Recommendations of the International Labour Organisation.

Primary statistical information concerning average wages in organisations of any legally constituted form shall not be confidential.

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 291-Z)

SECTION II
GENERAL RULES FOR REGULATING INDIVIDUAL LABOUR RELATIONS AND RELATIONS CONNECTED WITH THEM

CHAPTER 2
CONCLUDING AN EMPLOYMENT CONTRACT

Article 16. Prohibition of unjustified refusal to conclude an employment contract with particular individual citizens

Unjustified refusal to conclude an employment contract shall be prohibited with particular individual citizens:

ConsultantPlus: comment.

Liability of parents for evading reimbursement of state expenditures for the care of children who are or have been wards of the state has been established in the second paragraph of Article 174 of the Criminal Code of the Republic of Belarus.

1) who have been assigned to work in a position reserved by the Committee on Labour, Employment and Social Protection under the Minsk Municipal Executive Committee, by the administrations (departments) of labour, employment and social protection of municipal and regional executive committees (hereinafter **labour, employment and social protection bodies**); and also persons required to reimburse state expenditures for the care of children who are wards of the state and have been remanded by labour, employment and social protection bodies to organisations included in the list of organisations, regardless of their form of ownership, for employment of such persons in the manner prescribed by law;
(point 1 of the first paragraph of Article 16 as amended by Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

ConsultantPlus: comment.

In carrying out the decision of a court, the employer is required to conclude an employment contract with persons solicited to work through the procedure for transfer from another employer on the first workday following dismissal from a previous job, unless otherwise agreed upon by the parties; for other persons, the employer is required to do so on the day that it is proposed that an employment contract be concluded. (fifth part of point 4 of the Resolution of the Plenum of the Supreme Court of the Republic of Belarus dated 29 March 2001 N 2)

2) who have a solicitation in writing to work through the procedure for transfer from one employer to another with their consent for one month following the day of receipt of the written solicitation, provided that the parties have not agreed otherwise;
(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

3) who have an assignment to work after graduating from training at a state educational institution or at an organisation that provides programmes of post-graduate higher education;
(point 3 of the first paragraph Article 16 as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

4) who have the right to conclude an employment contract on the basis of a collective bargaining contract or agreement;

5) who are assigned to work under an allocation following graduation from a state educational institution;
(point 5 of the first paragraph as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

6) who are women refused for reasons connected with pregnancy or having children under three years of age, or with being a single parent of a child under fourteen years of age (under eighteen years of age for a child with disabilities);
(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

7) who are persons who have performed military service and have been released from the Armed Forces or from other troops and military formations and are assigned to work in a reserved position that provides a first job or are applying to work for same that employer in an employment capacity (occupation) equivalent to that in which they were employed prior to conscription;
(as amended by the Law of Belarus dated 20 July 2007 N 272-Z and 18 July 2019 N 219-Z)

8) who are released from alternative service and are assigned to work in a reserved position that provides a first job or are applying to work for same employer in an employment capacity (occupation) equivalent to that in which they were employed prior to alternative service;
(point 8 of the first paragraph of Article 16 of the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

9) who have graduated from educational institutions where they have received vocational and technical training, secondary specialized training, or higher education and are in the categories of orphans of minor age and children without parental care, persons from among orphans of minor age and children without parental card, persons with special needs in their psychological and physical development and are employable in reserved positions.
(point 9 of the first paragraph Article 16 was introduced by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

In the circumstances stipulated by the first paragraph of this article, upon request by a citizen or specially authorized governmental agency, the employer shall inform them in writing of the motives for refusal within three days of notification.

ConsultantPlus: comment.

Persons who believe that refusal to employ them was unjustified may contest the employer's refusal to conclude an employment contract in court. (point 4 of Resolution of the Plenum of the Supreme Court of the Republic of Belarus dated 29 March 2001 N 2)

Refusal to conclude an employment contract may be contested in court.

Article 17. Term of an employment contract. Fixed-term employment contracts

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Employment contracts may be concluded for:

1) an indefinite period;

2) a fixed period not to exceed five years (fixed-term employment contract).

In the event that the period for which an employment agreement is in force has not been agreed upon, that employment contract shall be deemed concluded for an indefinite period.

A fixed-term employment contract, with the exception of an independent contractor agreement, may be concluded provided that employment for an indefinite period cannot be arranged because of the nature of the job offered or because of the conditions for its performance:

1) for the period required to perform a given job when the time of its completion cannot be precisely determined;

2) for the period required to perform an employee's duties during their temporary absence from a job whose job or employment capacity (occupation) is retained in accordance with this Code;

3) for a period of seasonal employment when the job may be performed only during a given season because of natural and climatic conditions;

4) with persons hired by organisations created for a fixed period;

5) with persons hired for an employment capacity (occupation) in a position which was occupied by a young specialist or young employee (subordinate) prior to their conscription into military service or assignment to alternative service for the duration of such service and for three months after its completion;

6) with the chief officer, their deputies and the senior accountant at an organisation for the period required to execute a procedure prescribed by law and (or) by the constituent document of the organisation in order to fill such an employment capacity;

7) with persons assigned by labour, employment and social protection bodies to paid public service;

8) in other circumstances established by this Code or by other legislative acts.

With the consent of the parties, fixed-term employment contracts may be concluded:

1) with persons hired as lawyers who offer legal counsel individually, with notaries who offer notarial services in a notary's office, with individual persons who provide services in agro-ecotourism, with individual entrepreneurs, and in micro-organisations;

2) with persons applying for a job concurrent with another.

ConsultantPlus: comment.

A contract may be extended beyond its maximum term for at least one year with the consent of the parties. A contract may be prolonged for a shorter period with agreement in writing from the employee unless the President of the Republic of Belarus determines otherwise. (sub-point 1.1 under point 1 of the Decree of the President of the Republic of Belarus dated 12 April 2000 N 180)

Independent contractor agreements shall be concluded through the procedures and under the conditions prescribed by this Code.

Article 18. The employment contract format

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

An employment contract shall be concluded in writing and consist of two copies. Each page of an employment contract and the attachments to it shall be numbered and signed by the employee and the employer or an official duly authorized by the employer. One copy of the employment agreement shall be given to the employee, and the other shall be retained by the employer.

The general format of an employment contract shall be approved by the Government of the Republic of Belarus or by a body it has duly authorized.

Article 19. Terms and conditions of an employment contract

The terms and conditions of an employment contract shall be determined by agreement between the parts with due regard for compliance with the requirements stipulated by this Code.

ConsultantPlus: comment.

The mandatory terms and conditions for an independent contractor agreement with an employee are prescribed in point 2 of the Decree of the President of the Republic of Belarus dated 26 July 1999 N 29.

The inclusion in an employment agreement of the following information, terms and conditions is mandatory:

- 1) information on the employee and employer that are concluding the employment contract;
 - 2) the workplace with indication of a structural subdivision in which the employee is to be employed;
 - 3) employment function. For this the title of the employment capacity (occupation) shall correspond to the qualification guidelines approved through a procedure determined by the Government of the Republic of Belarus, legal regulatory acts, and regulations of the activities of employees in the given employment capacity.
 - 4) basic rights and obligations of the employee and employer;
 - 5) term of the employment contract (for fixed-term employment contracts);
 - 6) schedule for work and time off (in the event that, for a particular employee, these differ from the general rules established by the employer);
 - 7) the employee's wages.
- (point 7 of the second paragraph of Article 19 as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

In addition to the terms and conditions in the second paragraph of this Article, an employment contract may stipulate conditions concerning a probationary period and concerning a term of employment that is compulsory after receiving training that is at least as extensive as is established by the contract, provided that the training was conducted at the employer's expense, as well as such other conditions as are not detrimental to the position of the employee in comparison to legislation or a collective bargaining contract.

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

An employment contract may be modified only with the consent of the parties, unless otherwise stipulated in this Code. In the event that labour legislation is amended, the terms and conditions of an employment agreement shall be aligned with labour legislation.
(fourth part of Article 19 as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Article 20. Prohibition of requirements to perform work that is not specified in an employment contract

ConsultantPlus: comment.

Refusal to perform work which is not part of an employee's routine work duties or the performance of which is contraindicated for reasons of health, as well as refusal to perform public service tasks, do not constitute an infraction of work discipline and do not incur disciplinary measures. (fourth paragraph of point 3 of Resolution of the Plenum of the Supreme Court of the Republic of Belarus dated 28 June 2012 N 4)

The employer shall not have the right to require that an employee perform work that is not specified by an employment contract, except in such circumstances as are stipulated by legislative acts.

Article 21. Permissible age for concluding an employment contract

Concluding an employment contract with persons who have attained sixteen years of age is permissible.

With consent in writing from one parent (adoptive parent, guardian) an employment contract may be concluded with persons who have attained fourteen years of age with due observance of the conditions stipulated in Article 272 of this Code.

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z and 18 July 2019 N 219-Z)

Article 22. Invalidity of an employment contract

ConsultantPlus: comment.

In the event that an employment contract is declared invalid, wages for work already performed are not refundable. (third paragraph of point 8 of Resolution of the Plenum of the Supreme Court of the Republic of Belarus dated 29 March 2001 N 2)

An employment contract shall be deemed invalid in the event that it has been concluded:

1) by means of deception, force, or threats and also if it has been concluded with terms extremely unfavourable to the employee as a result of combined hardships;

2) with intent to evade legal consequences (fictitious employment contract);

3) with a citizen who has been declared legally incompetent;
(point 3 of Article 22 in the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

4) with a person under fourteen years of age;

ConsultantPlus: comment.

The right to sue for a declaration that a contract is invalid is granted to employers, employees, legal

representatives of minor employees and also to prosecutors in the circumstances stipulated in Chapter 81 of the Civil Procedural Code and to other persons in accordance with rules established in Chapter 11 of the Civil Procedural Code. (second paragraph of point 8 of Resolution of the Plenum of the Supreme Court of the Republic of Belarus dated 29 March 2001 N 2)

5) with a person between fourteen and sixteen years of age without consent in writing from one parent (adoptive parent, guardian).
(as amended by the Law of the Republic of Belarus dated 18 July 2019 219-Z)

Chapter 23. Invalidity of particular terms and conditions of an employment contracts

Particular terms and conditions of an employment contract shall be deemed invalid if they:

1) are detrimental to the position of the employee in comparison to legislation or a collective bargaining contract, agreement, or other local regulations;
(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

2) are discriminatory.

Invalidity of particular terms and conditions of an employment contract shall not entail invalidity of that employment contract in its entirety.

Article 24. Concluding an employment agreement under specific conditions

(as amended by the Law of Belarus dated 18 July 2018 N 219-Z)

In the circumstances stipulated in this Code and in other labour legislation, concluding an employment contract may result from a competition, from election to an employment capacity and from other arrangements that allow occupational fitness for a job or employment capacity to be determined.

Article 25. Entry into effect of an employment agreement

An employment agreement enters into force on the day that work begins as stipulated in that agreement by the parties and this Code.

ConsultantPlus: comment.

In the event that an employer refuses to duly register an employee as employed and subsequently bars the employee from employment, the latter has the right to sue in court for reinstatement in employment and for the employer to be compelled to duly register that employment. (third paragraph of point 7 of Resolution of the Plenum of the Supreme Court of the Republic of Belarus dated 29 March 2001 N 2)

The recruitment in fact of an employee into employment by a duly authorized official of an employer shall constitute the entry into force of the employment contract regardless of whether registration as employed has been carried out in the proper form.
(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

The recruitment in fact of an employee into employment by a duly authorized official of an employer shall be in written form no later than the day following the day of induction into a job.
(third paragraph of Article 25 as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Following the conclusion by established procedures of an employment contract, recruitment into employment shall be formalized by an order (instruction) of the employer. The order (instruction) shall be acknowledged by with the employee's signature.

Article 26. Documents for presentation upon conclusion of an employment agreement

ConsultantPlus: comment.

As of 1 January 2015 the employer has the right upon recruitment of an employee into employment to inquire of the previous workplace about performance, and this shall be submitted within five calendar days from the day of receipt of the inquiry. (point 11 of Decree of the President of the Republic of Belarus dated 15 December 2014 N 5)

ConsultantPlus: comment.

Documents and information to be submitted upon employment by a governmental service are stipulated by Article 25 of Law of the Republic of Belarus dated 14 June 2003 N 204-Z.

Upon conclusion of an employment contract, the employer shall require and the citizen shall provide to the employer:

1) a document that establishes identity; a document of registration with the military (for those liable to military service and persons subject to conscription);
(as amended by the Law of the Republic of Belarus dated 9 November 2009 N 51-Z)

2) a cumulative employment record, except for first-time employees and part-time employees;

3) a document concerning education or training which certifies the right to perform the given job;
(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

4) an assignment to a position reserved for particular categories of employees in accordance with legislation;

5) an individual rehabilitation programme for a person or persons with disabilities;
(point 5 of the first paragraph of Article 26 as amended by the Law of the Republic of Belarus dated 17 July 2009 N 48-Z)

ConsultantPlus: comment.

An employer regardless of form of ownership, when recruiting graduates of state educational institutions during the two years following receipt of higher or secondary education and during the first year following receipt of vocational and technical training, is required to them to submit certification of their assignment to work or a certificate of independent self-employment. (point 32 of Decree of the Council of Ministers of the Republic of Belarus dated 22 June 2011 N 821)

ConsultantPlus: comment.

The employee has the right to provide the employer with a letter of recommendation and such other documents as may describe his qualities as an employee at the previous employer (employers). (fourth paragraph of point 9 of Decree of the Ministry of Labour of the Republic of Belarus dated 5 April 2000 N 46)

6) a declaration of income and property, insurance certificate, medical certificate of health status and other documents that confirm other circumstances pertinent to a job, provided that their submission is stipulated by legislative acts.

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Recruitment into work without these documents is prohibited.

The employer has the right when recruiting a citizen into employment to inquire of the previous workplace about performance, and this shall be submitted within five calendar days from the day of receipt of the inquiry.

(the third paragraph of Article 26 was introduced by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

During conclusion of an employment agreement, demanding documents not prescribed by law is prohibited.

Article 27. Restrictions on co-working between close and distant relatives

(as amended by the Law of the Republic of Belarus dated 15 July 2015 N 305-Z)

Co-working in one and the same state organisation (separate subdivision) in the capacity of chief officer office (their deputy), senior accountant (their deputy) and treasurer by persons who are relatives by descent or marriage (parents, children, adoptive parents and adopted children, brothers and sisters, grandparents, grandchildren, spouses and also relatives of a spouse (spouses) shall be prohibited in the event that their work entails direct subordination or control of one over the other.

(first paragraph of Article 27 as amended by Law of the Republic of Belarus dated 15 July 2015 N 305-Z)

The prohibition stipulated in the first paragraph of this Article may be adopted in non-state organisations upon the decision of the owner.

Article 28. Employment contract with probation

ConsultantPlus: comment.

Concluding an employment contract with probation is permissible regardless of the term of the contract. (point 13 of Resolution of the Plenum of the Supreme Court of the Republic of Belarus dated 29 March 2001 N 2)

For the purpose of verifying the suitability of employees for jobs assigned to them, during recruitment to employment an employment contract may be concluded with probation, except in the circumstances stipulated in part five of this Article.

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 201-Z)

During a probationary period, this Code with the particular features stipulated in this Article and in Article 29 of this Code, as well as in other legislative acts pertaining to labour, shall be in force for the employee.

ConsultantPlus: comment.

For citizens who are beginning employment at government services, the parties may agree upon a probationary period from three to six months (point 1 of Article 29 of Law of the Republic of Belarus dated 14 June 2003 N 204-Z)

The duration of the probationary period shall not exceed three months, not including periods of temporary incapacity to work and other periods when the employee is absent.

ConsultantPlus: comment.

In the event that probation has not been stipulated in an independent contractor agreement and is included only in an employment instruction, termination of that agreement on probationary grounds is prohibited. (second paragraph of point 7 of Resolution of the Plenum of the Supreme Court of the Republic of Belarus dated 26 June 2008 N 4).

Probation must be stipulated in an employment contract. Absence of probation from an employment contract entails employment of the employee without probation.

Probation upon conclusion of an employment contract shall not be imposed:

- 1) upon employees under eighteen years of age;
- 2) upon young employees (subordinates) who have received vocational and technical training; (point 2 of the fifth paragraph of Article 18 as amended by the Law of the Republic of Belarus dates 8 January 2014 N 131-Z)
- 3) upon young specialists who have received special secondary, higher or post-graduate training; (point 3 of the fifth paragraph of Article 18 as amended by the Law of the Republic of Belarus dates 8 January 2014 N 131-Z)
- 4) upon persons with disabilities;
- 5) upon temporary and seasonal employees;
- 6) upon transfer to a another workplace or employer;
- 7) upon employment as a result of a competition or election;
- 8) in such other circumstances as are stipulated by law.

Article 29. Terminating an employment contract with probation

Each party to an employment agreement shall have the right to terminate an employment contract with probation:

- 1) prior to the expiration of the probationary period with notification of the other party in writing three days in advance;
- 2) on the day that the probationary period expires.

ConsultantPlus: comment.

Terminating an employment contract with probation is possible provided that objective information indicates that an employee is incapable of performing the duties of an occupation, specialty, or office with its attendant qualifications that have been agreed upon during recruitment. In the absence of such information during the probationary period, an employee may be dismissed only upon his own initiative or else on grounds stipulated in the Labour Code. (second paragraph of point 13 of Resolution of the Plenum of the Supreme Court of the Republic of Belarus dated 29 March 2001 N 2)

In such circumstances, the employer shall indicate the grounds on which it was determined that the employee failed probation. The employee shall have the right to contest the employer's decision in court.

In the event that the probationary period of an employment contract with an employee has expired and not been terminated in accordance with the first paragraph of this Article, that employee shall be deemed to have passed probation, termination of the employment contract with that employee shall be permissible only on general grounds.

CHAPTER 3 MODIFYING AN EMPLOYMENT CONTRACT

Article 30. Transfer

ConsultantPlus: comment.

Refusal to perform work when a transfer has been carried out in accordance with the law is deemed an infraction of work discipline, and absence from work is deemed truancy. However, refusal by employees to appear for work to which they have not been lawfully transferred is not deemed truancy. (point 17 of Resolution of the Plenum of the Supreme Court of the Republic of Belarus dated 29 March 2001 N 2)

Transfer is an employer's assignment of an employee to a job with other qualifications or in another employment capacity (occupation) (with the exception of modifications in accordance with the legal designation of an employment capacity [vocation]) than was specified in an employment contract, and also assignment of an employee to another employer (Article 32-1) or another workplace (except for business trips).

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z and 18 July 2019 N 219-Z)

ConsultantPlus: comment.

The form for transfer to another job is retained is contained in a communique from the Department of Archives and Records Management under the Ministry of Justice dated 14 May 2007 N 25.

Transfer is permissible only with the written consent of the employee, except in circumstances stipulated in the third paragraph of this Article and in the first through third paragraphs of Article 33 and in Article 34 of this Code.

(as amended by Law of the Republic of Belarus dated 20 July 2007 N 272-Z and 18 July 2019 N 219-Z)

Employees who are obligated to reimburse state expenses for the care of children who are wards of the state, those who are receiving state support by reason of improper job performance, or for infractions of technical, procedural or work discipline may be transferred by an employer to a different job with the consent of a labour, employment and social protection body.

(the third paragraph of Article 30 was introduced into Law of the Republic of Belarus dated 20 July 2007 N 272-Z); and into versions of the Law of the Republic of Belarus dated 8 January 2014 N 131-Z and 18 July 2019 N 219-Z)

An employee who requires, in accordance with the findings of a medical advisory commission or a medical rehabilitation expert commission, assignment to a different job, shall be, with their consent, transferred by the employer to another job which is at the disposal of the employer and which conforms to the findings of the medical advisory commission or medical rehabilitation expert commission. In the

event that the employee declines transfer or that a suitable job is not available, the employment contract shall be terminated according to point 3 of Article 42 of this Code.
(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z and 18 July 2019 N 219-Z)

Transfer of an employee to a job that is contraindicated for reasons of health shall be prohibited.

Upon transfer to another permanent position with the same employer, the employer shall conclude an employment contract in accordance with the requirements of Articles 18 and 19 of this Code.
(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z and 18 July 2019 N 219-Z)

Article 31. Relocation

Relocation is an employer's assignment of a previously employed employee to a new workplace in the same structural subdivision or in another one, with the exception of a separately established one, to another mechanical workstation or assembly unit, but within the scope of qualification and employment capacity (occupation) and with retention of the work conditions stipulated by the employment contract.
(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

A workplace is a place where the employee is located permanently or temporarily in the job process.

The employee's consent is not required for relocation.

Relocation shall be justified by manufacturing, organisational or economic reasons.

Relocation of an employee to a job that is contraindicated for reasons of health shall be prohibited.

Article 32. Material modification of work conditions

ConsultantPlus: comment.

Modification of existing work conditions must be based upon manufacturing, organisational or economic reasons expressed, in particular, in terms of rationalizing jobs, modifying manufacturing techniques and technology, introducing new methods for organising work, and improving jobs on the basis of certification. (second paragraph of point 20 of Resolution of the Plenum of the Supreme Court of the Republic of Belarus dated 29 March 2001 N 2)

The employer shall have the right, for justifiable manufacturing, organisational and economic reasons and through the procedures stipulated in this Code, to modify employees' existing work conditions when continuing to employ them with the same qualifications and in the same employment capacity (occupation) as prescribed by the employment contract.
(in the edition of the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

ConsultantPlus: comment.

If the employee refuses to conclude an independent contractor agreement, then the employment contract is curtailed by reason of the employee's refusal to continue employment with modifications of existing work conditions. (fourth paragraph of point 1 of Decree of the President of the Republic of

Belarus dated 26 July 1999 N 29)

Modification of the system of wages, of an employee's schedule of working hours including establishing or cancelling part-time work, modification of guarantees, decrease of wages, proposal to conclude an independent contractor agreement with an employee who is employed under an employment contract with an indefinite term, as well as other terms and conditions established in accordance with this Code shall be deemed material modifications of work conditions. Modification of an employee's sequence of shifts (Article 123) shall not be deemed a material modification of work conditions.

(second paragraph of Article 32 as amended by Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

ConsultantPlus: comment.

As of 1 January 2015 the chief officer of an organisation has the right to make material changes in work conditions for an employee for justifiable manufacturing, organisational or economic reasons with notification of the worker in writing seven calendar days in advance. (sub-point 3.2 of point 3 of Decree of the President of the Republic of Belarus dated 15 December 2014 N 5)

The employer shall notify an employee of a material modification of existing work conditions in writing one month in advance.

In the event that an employee shall refuse to continue employment with material modifications to existing work conditions, the employment contract is terminated in accordance with point 3 of Article 35 of this Code.

(as amended by Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Article 32-1. Temporary transfer

(introduced into Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

The employer shall have the right to temporarily transfer an employee to another job, including at another workplace as well as with another employer, under conditions of:

1) the employee's consent in writing to a term of up to six months of a calendar year or to another term not stipulated in this Code;

2) exigencies of production (Article 33);

3) idling of operations (Article 34).

Temporary transfer shall be conducted on the basis of the employer's order (instruction) concerning temporary transfer and its duration, the job to which the employee is transferred, and also the wage conditions. The employee shall acknowledge the order (instruction) concerning temporary transfer by countersigning it.

During temporary transfer the employment contract shall continue in force, and any other employment contract shall not be concluded, unless stipulated otherwise in this Code.

The duration of temporary transfer to another employer shall not exceed the term of the applicable employment contract.

During employment by another employer, the employee shall adhere to the rules of internal work procedure and to other documents which regulate matters of work discipline at the other employer and shall execute written and oral orders (instructions) of the other employer that do not contravene the law or local regulations.

The other employer shall provide the employee with work conditions consistent with the requirements of occupational safety and health; adhere to the requirements of occupational safety and health; and, in the absence of legal regulatory acts, including mandatory legal regulatory acts, for or requirements concerning occupational safety and health, adopt the measures necessary to ensure preservation of the employee's life, health and ability to work during the job process. Other obligations of the other employer for ensuring occupational safety and health shall be specified by an agreement between the employers.

During employment of an employee by another employer, remuneration for work, provision of leave from work, imposition of disciplinary and financial liability, and the regulation of other matters that require a decision from the employer shall be provided by the employer with which the employee has concluded an employment contract, unless stipulated otherwise by this Code.

Article 33. Temporary transfer for exigencies of production

In the event of production exigency, the employer shall have the right to transfer employees to jobs not specified by the employment contract (with different qualifications, employment capacities [vocations]) as well as with a different employer.

(as amended by Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

The exigency for a given employer to avert a catastrophe or industrial emergency or to promptly mitigate their consequences or the consequences of natural disasters, to prevent accidents, idling of operations, destruction or spoilage of the employer's property or the property of others, and in other exceptional circumstances, as well as to replace an absent employee shall be deemed exigencies of production.

Temporary transfer for reason of exigencies of production shall be carried out with the consent of the employee for a duration of one month or, for replacement of an absent employee, such transfer may not exceed one month during a calendar year (from 1 January through 31 December). With consent of the parties, duration of such transfers may be increased.

(as amended by the Law of the Republic of Belarus dated 20 July 2007 272-Z)

Temporary transfer for exigencies of production to another workplace shall be permissible only with the consent of the employee.

The fifth paragraph of Article 33 has been removed. Law of the Republic of Belarus dated 18 July 2019 N 291-Z.

Article 34. Temporary transfer for idling of operations

(as amended by Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Temporary lack of work for reasons of a manufacturing or economic nature (equipment and mechanical failures, lack of raw and finished materials, electricity and more) shall be deemed idling of operations.

Temporary transfer in the event of idling of operations shall be carried out with due regard for the qualifications and employment capacity (occupation) of the employee during the period of idling at the same employer or to another employer for no longer than one month but within the same workplace.

CHAPTER 4 TERMINATING AN EMPLOYMENT CONTRACT

Article 35. General conditions for terminating an employment contract
(as amended by Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

An employment agreement shall be terminated only on the grounds stipulated in this Code.

Grounds for terminating an employment agreement are:

- 1) agreement of the parties (Article 37);
- 2) expiration of the term of a fixed-term employment contract, except when labour relations in fact continue and neither of the parties has requested its termination;
(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)
- 3) termination of the employment contract by request (Article 40) or on demand of the employee (Article 41) or upon the initiative of the employer (Article 42);
(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

ConsultantPlus: comment.

In concluding a contract with an employee hired with their consent to the transfer procedure by another employer, the terms and conditions of the contract concluded may be agreed upon in a written invitation to work. (point 6 of Resolution of the Plenum of the Supreme Court of the Republic of Belarus dated 26 June 2008 N 4)

- 4) transfer of an employee with their consent to another employer or transfer to an elective employment capacity;
(as amended by the Law of the Republic of Belarus dated 18 June 2019 N 219-Z)

- 5) refusal of an employee to be transferred to another locality together with the employer; refusal to continue working by reason of material changes in work conditions, and also refusal to continue work by reason of changes in ownership and (or) reorganisation (merger, acquisition, divestiture, transformation) of an organisation's property, lease of property held by the organisation, or transfer of shares (authorized capital stake) to management by trustees;
(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z and 18 July 2019 N 219-Z)

- 6) circumstances beyond the control of the parties (Article 44);
- 7) termination of an employment contract after expiration of its probationary period (Article 29).

Article 36. Labour relations under resubordination, reorganisation of an organisation and changes in ownership
(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

Transfer of an organisation from subordination under one body to subordination under another shall not terminate an employment contract.

In the event of changes in ownership of an organisation's property, lease of property held by the organisation or transfer of shares (authorized capital stake) to management by trustees, the employment agreement with the chief officer of the organisation may be dissolved by the chief officer's deputies and senior accountant no later than three months after the day on which the acquisition of property rights by the new owner, the lease of property held by the organisation, or the transfer of shares (authorized capital stake) to management by trustees comes into effect.

(second paragraph of Article 36 as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

In the event of changes in ownership and (or) reorganisation (merger, acquisition, spinning off divestiture, transformation) of an organisation's property, lease of property held by the organisation, or transfer of shares (authorized capital stake) to management by trustees, labour relations, with consent of the employee to the terms and conditions prescribed by the employment contract shall persist. In the event that the employee declines to continue working in the same employment capacity (occupation), the employment contract shall be terminated in accordance with point 5 of the second paragraph of Article 35 of this Code.

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z and 18 July 2019 N 219-Z)

In the event that the terms and conditions prescribed by the employment contract for the same employment capacity (occupation) cannot be retained, the employment contract may be terminated in accordance with point 1 of Article 42 of this Code.

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

In the event of changes in the ownership of an organisation's property, reductions in the number or status of employees shall be permitted only after state registration of the transfer of property rights.

Article 37. Terminating an employment agreement with the consent of the parties

(as amended by Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

ConsultantPlus: comment.

A person liable for reimbursement of expenditures for care of children may not be dismissed from work prior to full reimbursement, except in certain circumstances. (thirteenth paragraph of Decree of the President of the Republic of Belarus dated 24 November 2006 N 18)

ConsultantPlus: comment.

While serving a sentence to correctional labour, an employment contract with a convict may not be terminated with consent of the parties or upon request of the convict without permission in writing from the correctional services. (third paragraph of Article 38 of the Correctional Code of the Republic of Belarus)

An employment contract concluded for an indefinite period (paragraph 1 of Article 17) and also a fixed-term employment contract may be dissolved at any time upon agreement of the parties to the employment contract.

Article 38. Terminating a fixed-term employment contract

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

An employment contract concluded for a fixed period (point 2 of the first paragraph of Article 17) shall be terminated upon the expiration of its period in force.

An employment contract concluded for the period required to perform a given job (point 1 of the third paragraph of Article 17) with persons assigned by labour, employment and social protection bodies to paid public service (point 7 of the third paragraph of Article 17) shall be terminated on the day of completion of that job.

An employment contract concluded for the period required to perform an employee's duties during their temporary absence from a job (point 2 of the third paragraph of Article 17) with persons hired for an employment capacity (occupation) that had been occupied by a young specialist or young employee (subordinate) prior to their conscription into military service or assignment to alternative service (point 2 of the third paragraph of Article 17) shall be terminated on the day prior to the day on which that employee appears on the job.

An employment contract concluded for a period of seasonal employment (point 3 of the third paragraph of Article 17) shall be terminated upon expiration of the season.

An employment contract concluded with persons hired by organisations created for a fixed period (point 4 of the third paragraph of Article 17) or with the chief officer, their deputies and the senior accountant at an organisation for the period required to execute a procedure prescribed by law and (or) by the constituent document of the organisation in order to fill such an employment capacity (point 6 of the third paragraph of Article 17) shall be terminated on the day of completion of the given periods.

Article 39. Prolonging the effect of a fixed-term employment contract for an indefinite period

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z) and 18 July 2019 N 219-Z)

In the event that a fixed-term employment contract reaches its expiration date and that labour relations persist in fact with neither of the parties requiring their termination, then the effect of the employment agreement shall be deemed prolonged for an indefinite period, unless stipulated otherwise in this Code.

Article 40. Termination of an employment contract concluded for an indefinite period upon request of the employee

ConsultantPlus: comment.

An employee's being on leave and also their temporary incapacity do not preclude an employer from terminating an employment contract with an employee. (sub-point "g" of point 21 of Resolution of the Plenum of the Supreme Court of the Republic of Belarus dated 29 March 2001 N 2)

The employee shall have the right to terminate an employment contract concluded for an indefinite period by warning the employer in writing one month in advance of termination.

Upon agreement among the parties and in the circumstances stipulated by a collective contract, an employment contract may be terminated prior to the expiration of its period for warning.

Employees shall have the right, prior to the expiration of the period for warning, to withdraw their application, provided that no other employee who cannot lawfully be denied an employment contract has been recruited in their place.

In circumstances which preclude or present substantial difficulty in prolonging employment (state of health, attainment of retirement age, radioactive contamination of an area, and other such circumstances) as well as in instances of infringement by the employer of labour legislation, a collective contract, agreement, or employment contract, the employer shall terminate the employment contract within the period specified by the application of an employee.

Upon expiration of the period for warning, the employee shall have the right to cease work. On the final day of work, the employer shall give the employee their cumulative employment record (Article 50) and reach a final settlement with them (Article 77).

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Article 41. Termination of a fixed-term employment contract upon request of the employee

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

ConsultantPlus: comment.

Decree of the Council of Ministers of the Republic of Belarus dated 2 August 1999 N 1180 established a minimum compensation of three average monthly wages in the event of early termination of a contract with an employee on grounds of failure to fulfil or to adequately fulfil its terms and conditions through the employer's fault.

ConsultantPlus: comment.

Among the grounds that could be adduced are, for example, state of health, attainment of retirement age, change of residence, and need to care for an ill member of the family. (second paragraph of point 19 of the Resolution of the Plenum of the Supreme Court of the Republic of Belarus dated 26 June 2008 N 4)

A fixed-term employment contract is subject to early termination upon request of employees in the event that they are in poor health or become disabled, enter into military service under contract or for other meritorious reasons which prevent performing work under the employment contract, and also in the event that the employer infringes labour legislation, a collective contract, or an employment contract.

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

The fact that an employer has infringed labour legislation, a collective contract, or an employment contract shall be established by a body duly authorized to exercise oversight of compliance with labour legislation, by a trade union and (or) a court, or may be established by the employer independently.

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Article 42. Terminating an employment contract on the initiative of the employer

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

ConsultantPlus: comment.

As of 1 January 2015, Decree of the President of the Republic of Belarus dated 15 December 2014 N 5 has stipulated additional grounds for terminating an employment contract (contract).

An employment contract concluded for an indefinite period as well as a fixed-term employment contract prior to the expiration of its period in force may be terminated by the employer in such circumstances as:

ConsultantPlus: comment.

Transfer an organisation's subordinate from one body to another does not terminate an employment contract. (point 26 of Resolution of the Plenum of the Supreme Court of the Republic of Belarus dated 19 March 2001 N 2).

1) liquidation of an organisation, termination of the operations of a branch office, of a representative office or of another separate subdivision, relocation, or reduction in the number of employees on in its staffing profile;

2) termination (cessation) in accordance with legislative acts of the activities of a lawyer acting as an individual to provide legal counsel, a notary conducting professional activities in a notarial office, an individual person conducting activities in the field of agro-ecotourism, an individual entrepreneur except in the event that the termination (cessation) of activities is due to conscription into the military or assignment to alternative service;

ConsultantPlus: comment.

These circumstances must be confirmed by a medical certificate. (third paragraph of point 29 of Resolution of the Supreme Court of the Republic of Belarus dated 29 March 2001 N2).

3) inability of the employee to meet the requirements of their employment capacity (occupation) or to perform work by reason of a state of health that precludes continuing in the given job;

ConsultantPlus: comment.

Terminating an employment contract on grounds of lack of specialized education, in the event that it is not required by law as a necessary condition for concluding an employment contract, is prohibited. (point 30 of Resolution of the Plenum of the Supreme Court of the Republic of Belarus dated 29 March 2001 N2).

4) unsuitability of the employee to the employment capacity (occupation) occupied or inability to perform adequately due to a lack of qualification that precludes continuing to work in a given capacity;

5) absenteeism during more than four consecutive months due to temporary incapacity to work (other than for pregnancy and maternity leave), provided that legislation has not fixed a longer period for retention of a job or employment capacity (occupation) for specific illnesses. For employees who have become incapacitated for work through injuries on the job or occupational illness, the job or employment capacity (occupation) shall be retained until such time as they have recovered their capacity to work or have been designated disabled;

6) failure without reasonable cause of an employee who is subject to an uncontested (pending) disciplinary penalty to perform work duties;

7) a single grave infraction by an employee of their work duties that is recognized as such by legislative acts, including:

ConsultantPlus: comment.

Absenteeism is also unauthorized use of days off as well as unauthorized leave (annual leave, social leave, basic minimum or basic extended vacation, supplementary vacation, etc.). (sub-point b of the second paragraph of point 34 of Resolution of the Plenum of the Supreme Court of the Republic of Belarus dated 29 March 2001 N2).

absenteeism (including absence from work for more than three hours of a workday) without reasonable cause;

appearance at work intoxicated by alcohol, narcotics or other intoxicants as well as consumption of alcoholic spirits, narcotics, psychotropic substances or their analogues, or intoxicating substances during working hours or in the workplace;

theft of the employer's property in the workplace, as established by a legally valid court verdict or the decree of a body empowered to impose administrative penalties;

infractions of technical, procedural or work discipline which cause damage to the organisation in an amount in excess of three imputed average monthly wages for employees in the Republic of Belarus;

infractions of the requirements for occupational safety and health which cause injury to or death of other employees;

8) infliction of damage in the course of performing work duties to the property of the state, legal entities and (or) individual persons , as established by a legally valid court verdict;

9) repeated (two or more times within six months) infractions of lawfully established procedures for considering appeals by citizens and legal entities, and also unjustified refusal to consider appeals by citizens and legal entities that fall within the competence of a respective state body;

10) unlawful prosecution of citizens and legal entities;

11) repeated (two or more times within six months) submission to duly authorized bodies of incomplete or unreliable information.

Article 43. Procedure and conditions for terminating an employment contract upon the initiative of the employer

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Terminating an employment contract on the grounds specified in point 1 (except in the event of liquidation of a branch of, representative office of, or a separate structural subdivision of an organisation situated in a locality other than the organisation's) and points 3 and 4 of Article 42 of this Code shall be permissible, provided that it is not possible to transfer the employee to another job with their consent.

It shall not be permissible to dismiss an employee on the grounds specified in Article 42 of this Code during temporary incapacity to work, except in accordance with point 5 of Article 42 of this Code, and during leave, except in the event of liquidation of a branch of, representative office of, or structural subdivision of an organisation situated in a locality other than the organisation's and in the event of circumstances stipulated in point 42 of Article of this Code.

In terminating an employment contract in accordance with points 1 and 2 of Article 42 of this Code, the employer is obligated to warn the employee in writing of the impending dismissal at least two months prior to it, unless a longer period has been prescribed by a collective contract or agreement.

During the warning period for impending dismissal, the employer shall provide the employee with other work which is at the disposal of the employer and which the employee is qualified to perform. During the warning period for impending dismissal, the employer may, with the employee's consent, assign that employee to retraining.

In terminating an employment contract in accordance with point 1 of Article 42 of this Code, the employer shall have the right, with the consent of the employee, to substitute compensation in the amount of two month's average wages for the warning of impending dismissal. In the event that the employer's solicitation to reach such an agreement shall follow after warning the employee of impending dismissal, then the compensation shall be paid in an amount proportional to the time remaining in the two-month warning period.

In terminating an employment contract in accordance with point 2 of Article 42 of this Code, the employer shall be obligated to substitute payment of compensation in the amount of two month's average earnings for the warning of impending dismissal.

During the entire warning period for impending dismissal, the employee shall maintain perform work duties, shall adhere to the rules for internal work procedures, and shall be guaranteed to remuneration for work equal to that of other employees. Until the expiration of the warning period, dismissal of the employee on the indicated grounds shall not be permissible without their consent.

During the entire warning period prescribed by this Article, the employee shall be provided with one unpaid day off in each week (or may retain wages with the consent of the employer) to independently pursue recruitment by another employer.

In terminating an employment contract in accordance with the second paragraph of point 7 of Article 42 of this Code, in the event that absenteeism without reasonable cause shall occur over two or more consecutive workdays, the employer shall have the right to issue an order (directive) pertaining to the dismissal of the employee from the first day of absenteeism.

Article 44. Terminating an employment contract in circumstances beyond the control of the parties

An employment contract shall be subject to termination in the following circumstances which are beyond the control of the parties:

1) conscription of an employee into military service or assignment of an employee to alternative service;

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z and 4 June 2015 N-277-Z)

2) reinstatement of an employee to a job that they had previously performed;

ConsultantPlus: comment.

In accordance with point 10 of Decree of the President of the Republic of Belarus dated 15 December 2014 N 5, appointment of a person to a position in contravention of the requirements stipulated in point 8 and the first and second paragraphs of point 9 of that Decree constitutes grounds for dismissal

of that person by reason of infraction of rules established for recruitment to work.

3) infraction of rules for recruitment to work;

4) failure to elect to an employment capacity (including through a competition);
(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

5) entry into force of a court verdict which imposes upon an employee a punishment that precludes their continuation in a job, or of a judicial decree which determines the employment of an employee who is under obligation to reimburse state expenditures for the care of children who are wards of the state;
(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

6) death of an employee, recognition by a court as a missing person or declared dead, death of an employer who is an individual person;
(point 6 has been inserted by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

7) commencement of legal restrictions on employment in certain types of activities such as would preclude continuation of work;
(point 7 of Article 44 has been inserted by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

8) termination (cessation) in accordance with legislative acts of the activities of a lawyer acting as an individual to provide legal counsel, a notary conducting professional activities in a notarial office, an individual person conducting activities in the field of agro-ecotourism, an individual entrepreneur in the event of their conscription into the military or assignment to alternative service;
(point 8 of Article 44 was introduced by Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Article 45. Pre-emptive right to retain a job in the event of reduction in the number or status of employees

ConsultantPlus: comment.

In the event of reduction in the number or staffing profile of employees, the employer has the right, within a comparable kind of job, to reassign (regroup) employees and to reassign, with their consent, a more qualified employee whose position is being eliminated with consequent dismissal of a less qualified employee. (point 28 of Resolution of the Plenum of the Supreme Court of the Republic of Belarus dated 29 March 2001 N 2)

In the event of reduction in the number or staffing profile of employees, a pre-emptive right to retain a job shall be extended to employees with higher job productivity and qualifications and in such other circumstances as are prescribed by law.

In the event of equivalent job productivity and qualifications, the pre-emptive right to retain a job shall reside with the following categories of employees:

1) participants in mitigating the consequences of the catastrophe at the Chernobyl nuclear energy plant;

2) victims of illness and radiation sickness caused by the catastrophe at the Chernobyl nuclear energy plant and by other radioactive emergencies;

3) persons with disabilities;

4) such other categories of workers as are stipulated by legislation, collective contracts and agreements.

(second paragraph of Article 45 as amended by the Law of the Republic of Belarus dated 12 May 2009 N 19-Z)

Persons with disabilities who work in organisations whose property is in the possession of public associations of persons with disabilities, as well as in workshops and facilities which employ persons with disabilities, and also in other organisation, shall have a pre-emptive right to retain a job regardless of job productivity and qualifications.

(as amended by the Law of the Republic of Belarus dated 17 July 2009 N 48-Z)

Article 46. Terminating an employment contract upon the initiative of the employer with prior notification or consent of a trade union

Termination of an employment contract upon the initiative of the employer (Article 42, with the exception of points 3 and the third and fifth paragraphs of point 7) may proceed after prior, but no less than two weeks prior notification of the respective trade union.

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z and 18 July 2019 N 219-Z)

Termination of an employment contract in the circumstances specified by the fifth paragraph of point 7 of Article 42 of this Code shall proceed simultaneously with notification (on the day of dismissal) of the respective trade union.

(the second paragraph of Article 46 was introduced as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

In circumstances prescribed by collective contracts and agreements, termination of an employment contract upon the initiative of the employer may proceed only with prior consent of the respective trade union.

Article 47. Additional grounds for terminating an employment contract with certain categories of employees under specific circumstances

ConsultantPlus: comment.

Employment contracts (contracts) prior to expiration of their period in force may be terminated by the employer on grounds designated as defamatory circumstances of dismissal.(point 6 of Decree of the President of the Republic of Belarus dated 15 December 2014 N 5)

In addition to the grounds stipulated in this Code, an employment contract with particular categories of employees may be terminated in the event of:

1) a single grave dereliction of work duties by the chief officer of an organisation (its separate subdivision), their deputies, the senior accountant and their deputies, including concealment by the chief officer of an organisation of the fact of infringement by workers of work duties or failure without reasonable grounds to apply to persons at fault such liability as is prescribed by law for such dereliction; (point 1 of the first paragraph of Article 47 as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

1-1) changes in ownership of an organisation's property, lease of property held by the organisation or transfer of shares (authorized capital stake) to management by trustees (with regard to

the chief officer of an organisation, their deputies and the senior accountant – second paragraph of Article 36);

1-2) infringement by the chief officer of an organisation without reasonable cause of the procedures and timeframe for payment of wages and (or) benefits;
(point 1-2 of the second paragraph of Article 47 was introduced into the version of the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

ConsultantPlus: comment.

In this connection, it is immaterial what amount of financial liability for damage inflicted on an employer in the course of performing work duties is borne by the employee or whether a contract concerning full liability for financial damage has been concluded with the employee. (point 42 of Resolution of the Plenum of the Supreme Court of the Republic of Belarus dated 29 March 2001 N 2)

2) commission of culpable acts by an employee directly involved in handling monetary and physical assets, provided that those acts are grounds for loss of trust by the employer in the employee;

ConsultantPlus: comment.

Dismissal on these grounds is permissible for only those employees whose job functions are fundamentally educational, specifically teachers, teachers at instructional institutions, qualified industrial trainers, and educators at child care institutions. The basis for such dismissal is immoral misconduct that is incompatible with continuation of educational activities, whether committed in connection with conducting such activities or otherwise. (point 43 of Resolution of the Plenum of the Supreme Court of the Republic of Belarus dated 29 March 2001 N 2)

3) immoral misconduct which is committed by an employee who is performing an educational function and which is incompatible with continuation in such a position;

4) referral of an employee by judicial decree to a compulsory treatment centre for workers;

5) refusal of an employee who is an officer of the state to sign a commitment in writing to adhere to restrictions stipulated by anti-corruption legislation;
(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z and 15 July 2015 N 305-Z)

5-1) infractions of a commitment in writing to adhere to restrictions stipulated by anti-corruption legislation by an employee who is an official of the state or commission of an offence which facilitates corruption or corrupt offences;
(point 5-1 of the first paragraph of Article 47 was introduced into Law of the Republic of Belarus dated 15 July 2015 N 305-Z)

6) refusal of an employee who in performing their job functions of necessity has access to commercial secrets to sign a commitment in writing not to disclose commercial secrets or disclosure of commercial secrets by an employee who has access to them;
(point 6 of the first paragraph of Article 47 was introduced into Law of the Republic of Belarus dated 5 January 2013 N 16-Z)

7) onset (establishment) of circumstances which preclude performance of pedagogical activities or pedagogical activities in the field of physical culture and sport in accordance with legislative acts;
(point 7 of the first paragraph of Article 47 was introduced by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

8) rejection, in accordance with legislative acts, of access to state secrets for an employee who in performing their job functions would of necessity have such access, and equally refusal by such an employee of access to state secrets or withdrawal, in accordance with legislative acts, of access to state secrets in the event that withdrawal of their access to state secrets would preclude continuation of their work in the employment capacity which they occupy;

(point 8 of the first paragraph of Article 47 was introduced by the Law of the Republic of Belarus dated 17 July 2018 N 124-Z; as amended by Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

9) failure by an official to fulfil, or improper or untimely fulfilment of requirements issued in duly established legal form by an official performing state control (oversight) or of instructions from a state security body or failure to implement measures to eliminate infractions indicated in such instructions.

(point 9 of the first paragraph of Article 47 was introduced by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

An employment contract with employees of a physical culture or sports organisation who participate in training of sportsmen for sport shall be terminated in the event of their disqualification from sports on grounds of doping in sports.

(the second paragraph of Article 47 was introduced by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

ConsultantPlus: comment.

Decision of the Constitutional Court of the Republic of Belarus dated 1 February 2001 N R-106/2001 recognized the legal validity of establishing in collective contracts severance benefits as prescribed by Article 48 of this document (in addition to severance benefits explicitly listed in that Article).

Article 48. Severance benefits

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Severance benefits shall be paid in the circumstances stipulated by this Code, by other acts of the legislature and of collective contracts and agreements.

Upon termination of an employment contract, with the exception of independent contractor agreements, by reason of an employer's infraction of labour law, a collective contract, or an employment contract, the employee shall receive a severance benefit in an amount no less than two weekly average wages.

Upon termination of an employment contract under the circumstances indicated in points 1 and 2 of Article 42 of this Code, the employee shall be paid severance benefits in an amount of at least three monthly average wages.

Upon termination of an employment contract under the circumstances specified in point 5 of the second paragraph of Article 35, points 3 and 4 of Article 42, and points 1, 2 and 8 of Article 44 of this Code, the employee shall be paid severance benefits in an amount of at least two week's average wages. In this connection and in the event of termination of an employment contract on grounds specified in point 5 of the second paragraph of Article 35 of this Code (refusal to continue work by reason of material changes in work conditions) or by reason of establishing work in concurrent jobs at less than half of the full-time amount, the employee shall receive severance benefits in an amount of at least one weekly average wages.

Upon termination of an employment contract with the chief officer of an organisation, their deputies, and the senior accountant on grounds specified in point 1-1 of the first paragraph of Article 47

of this Code, the new owner, lessor of property held by the organisation, or the person who as trustee manages shares (authorized capital stake) of an organisation, shall pay such employees severance benefits in an amount of at least three average monthly wages.

The amount of benefits may be increased according to the procedures and in the circumstances stipulated by a collective contract, agreement, and employer.

Part-time employees shall not receive severance benefits.

Article 49. Suspension from work

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Suspension from work is the temporary prohibition of an employee from performing their work duties by reason of the circumstance stipulated in this Article. Suspension from work shall take the form of an order (instruction) from the employer or their duly authorized agent with an indication of cause for suspension.

The order (instruction) shall be acknowledged by the employee with their signature no later than the next workday.

Refusal of an employee to acquaint themselves with the order (instruction) shall be documented in a report with presence of witnesses to the fact indicated.

ConsultantPlus: comment.

For certain issues surrounding payment of monthly state benefits to persons under suspicion or accused, who are temporarily suspended from a position by a body which conducts criminal justice processes, see Decree of the Council of Ministers of the Republic of Belarus dated 17 January 2008 N 58.

Upon demand by duly authorized state bodies in the circumstance stipulated by law, the employer shall suspend an employee from work.

The employer shall have the right to immediately suspend an employee from work upon discovery of infractions permitted by that employee of manufacturing, technical, procedural or work discipline which result in or are liable to result in damage to the organisation until such time as the infractions have been eliminated.

ConsultantPlus: comment.

Suspension of an employee from work by an employer, including by reason of unlawful behaviour is not a disciplinary measure. (third paragraph of point 7 of Resolution of the Plenum of the Supreme Court of the Republic of Belarus dated 28 June 2012 N 4)

In addition to circumstances stipulated by legislation, an employer shall bar from work (suspend from work) during the corresponding day (shift) an employee who:

ConsultantPlus: comment.

The refusal of a driver to submit to a sobriety test is grounds for their suspension from work. (point 7 of the Instruction, confirmed by the Ministry of Transport and Communication of the Republic of Belarus and the Ministry of Agriculture and Industry of the Republic of Belarus dated 9 July 2013 N 25/28)

1) appears at work intoxicated by alcohol, narcotics or other intoxicants, and also in such poor health as would hinder job performance;

2) has not passed instruction, internship or test of knowledge concerning occupational safety and health;

3) is not using means of personal protective gear which directly ensure occupational safety and health;

4) has not undergone medical examination or testing for intoxication by alcohol, narcotics or other intoxicants in the circumstances and according to the procedures stipulated by law.

An employer shall have the right to suspend from work an employee who has committed theft of the employer's property until the sentence of a court or the decree of a body whose authority extends to imposing administrative penalties comes into lawful force.

For the period of suspension from work, wages shall not be paid, except in the circumstances specified in the ninth paragraph of this Article.

During suspension of an employee who, through no fault of their own, did not pass instruction, internship or test of knowledge concerning occupational safety and health or did not undergo medical examination or testing for intoxication by alcohol, narcotics or other intoxicants in the circumstances and according to the procedures stipulated by law, that employee shall continue to receive remuneration for work for the entire period of suspension from work in accordance with the first paragraph of Article 71 of this Code.

Permission to work for an employee suspended from work shall take the form of an order (instruction) of the employer or their duly authorized agent.

Article 50. Cumulative work record [work book]

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

ConsultantPlus: comment.

Blanks for cumulative work records and the samples included in them for the national cumulative work record from 1995 that an employee has are in effect until their supply is exhausted. (point 3 of Decree of the Ministry of Labour and Social Protection of the Republic of Belarus dated 16 June 2014 N 40)

The established format of the cumulative work record is the basic document concerning the employment of an employee in the circumstances in which filling them out it is mandatory. The sample for the cumulative work record is approved by the national state administrative body which implements state labour policy.

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Entries in cumulative work records are made by an employer (with the exception of employers who are individual persons) for all employees from their fifth day at work, including appearing at work for the first time, provided that work for the given employer is the principal employment for the employee.

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

In the event of hiring a person who lacks a cumulative work record by reason of its loss or damage to it or another reason provided by that person's written statement (with indication of the cause for lacking a cumulative work record) and in the circumstances established by law, the employer shall create a cumulative work record or make a duplicate of it.

The cumulative work record shall incorporate information about the employee, jobs performed by them, transfers to a different permanent job, and about dismissal of the employee and grounds for termination of an employment contract and about awards and commendations for success at work as well as other information.

The basis for making entries in the cumulative work record concerning conclusion of an employment contract, transfer to a different permanent job, about dismissal, and also about awards and commendations is an order (instruction) of an employer.

In the event of dismissal of an employee, the cumulative work record shall be given to the employee on the day of dismissal (on the last workday).

The employer shall bear liability in accordance with Article 79 of this Article for delay through fault of the employer in issuing a cumulative work record.

The procedures for issuing cumulative work records (inserts in them), making duplicates of cumulative work records, payments for cumulative work records (inserts in them), keeping inventories of them and retention of them by the employer, and also other information not specified in the fourth paragraph of this Article and subject to entry in a cumulative work record shall be determined by the state administrative body which implements labour policy.

Article 51. Issuing documents concerning work and wages

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z and 18 July 2019 N 219-Z)

ConsultantPlus: comment.

Standard forms for statements and permissions have been established by Decree of the Ministry of Labour and Social Protection of the Republic of Belarus dated 5 October 2010 N 140.

The employer shall no later than five days after the request of an employee, including a dismissed employee, issue a statement which indicates the qualifications, employment capacity (occupation), duration of employment and amount of wages, and also such other documents concerning work as are prescribed by law.

Article 52. Rules for maintenance of primary employment documents by the employer

Rules for maintenance of primary employment documents by the employer shall be established through the procedures determined by the Government of the Republic of Belarus or by a body it has duly authorized.

CHAPTER 5 OBLIGATIONS OF EMPLOYEES AND EMPLOYERS

Article 53. Obligations of employees

The following obligations shall be established for employees:

1) to conscientiously fulfil their work duties, including fulfilling established labour standards; (point 1 of the first paragraph of Article 53 as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

2) to adhere to the rules of internal work procedures, and to other documents which regulate matters of work discipline, to carry out written and oral orders (instructions) of the employer which are not contrary to law and local regulations;
(as amended by the Laws of the Republic of Belarus dated 20 July 2007 N272-Z and 18 July 2019 N 219-Z)

3) to refrain from activities that would hinder other workers in performing their work duties;

4) to ensure adherence to the established requirements for quality of production output, fulfilment of work, provision of services, to prevent defects in work and to observe technical procedural discipline;
(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

5) to adhere to the requirements established by legal regulatory acts pertaining to occupational safety and health and to use means of individual protection;
(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

6) to exercise due care of the employer's property and take actions to prevent damage;

7) to take immediate action to eliminate the causes and circumstances which hinder normal performance of work (emergencies, simple and otherwise) and to immediately notify the employer of such events;

8) to maintain their workplace, equipment and appurtenances in proper condition, order and cleanliness;

9) to observe established procedures for retention of documentation, items of material and monetary value;

10) to safeguard state and military service secrets and not disclose an employer's commercial secrets or the commercial secrets of third parties to which an employer has access;
(point 10 of Article 53 as amended by the Law of the Republic of Belarus dated 5 January 2013 N 16-Z)

11) to fulfil such other obligations as follow from legislation, local regulations and employment contracts.
(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z and 18 July 2019 N 219-Z)

In the event of failure to fulfil or to adequately fulfil their obligations, employees shall bear the liabilities stipulated by this Code and by other legislative acts.

Article 54. Obligations of employers during recruitment

During recruitment to work, the employer shall be obligated:

1) to require the documentation necessary for concluding an employment contract in accordance with legislation;
(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

2) to acquaint the employee with their acknowledgment by signature with the job assigned, its conditions and remuneration and to explain the employee's rights and obligations;

3) to acquaint the employee with their acknowledgment by signature with a collective contract, agreement and documents which regulate the internal work schedule;

ConsultantPlus: comment.

A standard list of questions for induction training in a programme for occupational safety and health has been established by the Directive “On the procedure for training, induction and instruction and test of knowledge concerning occupational safety and health” confirmed by Decree of the Ministry of Labour and Social Protection of the Republic of Belarus dated 28 November 2008 N 175.

ConsultantPlus: comment.

Induction training is conducted by an occupational safety and health engineer or specialist of an organisation who is charged with those duties. In a micro-organisation induction training may be conducted by the chief officer of the organisation. (second paragraph of point 47 of Decree of the Ministry of Labour and Social Protection of the Republic of Belarus dated 28 November 2008 N 175)

4) to conduct induction training in occupational safety and health;

5) to conclude an employment contract in writing, finalize the conclusion of the employment contract through an order (instruction) and present it to the employee with acknowledgment by the employee's signature;

(point of the first paragraph of Article 54 as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

6) to create (make entries in) the cumulative work record for the employee in accordance with the established procedures.

ConsultantPlus: comment.

Upon request of an employer (chief officer of an educational institution), the Ministry of Education provides within five days information from its database which confirms the fact of a particular employee's (person's) respective documents related to education in the event that there is any doubt about its factuality. (point 14 of Decree of the Ministry of Education of the Republic of Belarus dated 21 February 2006 N 11)

In the event that doubts arise about the authenticity of documents related to education, the employer shall direct an inquiry to the national state administrative body which implements state policy in the field of education concerning the fact of providing education to a particular person.

(the second paragraph of Article 54 was introduced by the Law of the Republic of Belarus dated 7 May 2007 N 219-Z); as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Article 55. Obligations of the employer for organising the work of employees

In organising the work of employees, the employer shall:

1) employ the work of employees reasonably;

2) ensure technical, procedural and work discipline;

(point 2 of the first paragraph of Article 55 as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

3) maintain a record of the hours actually worked by employees;

4) pay wages promptly and in the amount established by legislation, a collective contract, agreement, or employment contract;

5) ensure that conditions at each workplace are in compliance with the requirements of occupational safety and health, conform to legal regulatory acts, including technical regulatory acts and requirements for occupational safety and health; and, in the absence of legal regulatory acts, including technical regulatory acts and requirements for occupational safety and health, shall take the actions necessary to ensure the preservation of the life, health, and capacity to work of employees as they perform their work duties;

(point 5 of Article 55 as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

6) take the actions necessary to avert and prevent industrial accidents, and occupational and other illnesses of employees; ensure employee's knowledge of and adherence to the requirements of instructions pertaining to occupational safety and health and fire safety; promptly and properly conduct investigations and make records of industrial accidents;

(as amended by the Law of the Republic of Belarus dated 6 July 2009 N 37-Z and 8 January 2014 N 131-Z)

ConsultantPlus: comment.

The amount of additional wages for jobs with harmful and (or) hazardous work conditions has been set by Decree of the Council of Ministers of the Republic of Belarus dated 14 June 2014 N 575.

7) in the circumstances stipulated by legislation and local regulations, promptly provide guarantees and compensation pertaining to harmful and (or) hazardous work conditions (reduced workday, additional leave, remedial nutrition and more); adhere to the standards of occupational safety for women, young persons and persons with disabilities;

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z and 18 July 2019 N 219-Z)

8) provide employees, in accordance with the regulations for special clothing, special footwear and other items for personal protective gear; organise the storage and maintenance of such items;

9) ensure compliance with labour legislation and with the terms and conditions established by collective contracts, agreements, other local regulations, and employment contracts;

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z and 18 July 2019 N 219-Z)

10) promptly institute changes in the work duties of employees and inform employees of such changes with their acknowledgment by signature; make arrangements for acquainting employees with local regulations which affect their rights and obligations;

(point 10 of the first paragraph of Article 55 in the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

11) ensure occupational preparedness, advancement of qualifications, retraining and internship of employees in accordance with legislation;

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z and 18 July 2019 N 219-Z)

12) provide the conditions necessary for combining work with education in accordance with this Code;

(as amended by the Law of the Republic of Belarus dated 18 January 2014 N 131-Z)

13) ensure participation of employees in the management of organisation, promptly examine criticisms employees and report to them concerning measures adopted;

14) provide, upon the request of control (oversight) bodies duly authorized to conduct audits of compliance with labour legislation and legislation pertaining to occupational safety, information and (or) documents whose provision is stipulated by labour legislation and legislation pertaining to occupational safety, or report that they are not available;
(point 14 of Article 55 as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

15) document changes in the terms and conditions and termination of an employment contract with employees by means of an order (instruction) and inform employees about it with acknowledgment by signature;
(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

16) remove employees from work in the circumstances stipulated in this Code and in legislation;

16-1) provide employees with the conditions necessary for compliance with an established system for handling commercial secrets;
(point 16-1 of Article 55 was inserted by the Law of the Republic of Belarus dated 5 January 2013 N 16-Z)

17) fulfil such other obligations as follow from legislation, local regulations and employment contracts;
(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z and 18 July 2019 N 219-Z)

Employers shall fulfil their obligations, in the appropriate circumstances, with the consent of or participation by trade unions, including in the adoption of local regulations that affect the socio-economic and labour rights of employees.
(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z and 18 July 2019 N 219-Z)

In the event of failure to fulfil or to adequately fulfil their obligations, employers (duly authorized agents of employers) shall be held liable as stipulated in this Code and in other legislative acts.

CHAPTER 6 REMNERATION FOR WORK

(as amended by the Law of the Republic of Belarus dated 18 July 2018 N 219-Z)

Article 56. System of state guarantees for employee's wages
(as amended by the Law of the Republic of Belarus dated 18 July 2018 N 219-Z)

The system of state guarantees incorporates:

1) increase of the minimum wage in the Republic of Belarus;

2) the amount of the base wage for remuneration of employees of state-funded organisations and of other organisations which are subsidized and of employees whose remuneration has been set equal to that for employees of state-funded organisations;
(point 2 of the first paragraph of Article 56 of the Law of the Republic of Belarus dated 18 July 2018 N 219-Z)

3) tariffs for remuneration of employees of state-funded organisations and of other organisations which are subsidized and of employees whose remuneration has been set equal to remuneration of employees of state-funded organisations; and for civil servants the salaries which determine remuneration for specific occupationally qualified groups of employees at state-funded organisations and of other organisations which are subsidized and whose employees have had their remuneration set equal to that for employees of state-funded organisations; and for monthly salaries fixed for civil servants' positions;
(point 3 of the first paragraph of Article 56 as amended by the Law of the Republic of Belarus dated 18 July 2019 N219-Z)

4) the amount of increase in wages for jobs with conditions that depart from the normal;

5) measures to maintain the real value of wages and indexation of wages;

6) restrictions on the amounts withheld from wages;
(as amended by the Law of the Republic of Belarus dated July 18 2019 N 219-Z)

7) ensuring prompt payment of wages and implementation of state guarantees including concerning their amount;
(point 7 of the first paragraph of Article 56 as amended by the Law of the Republic of Belarus dated 18 July 2019 N219-Z)

8) liability of employers for infractions of the terms and conditions of collective contracts, employment contracts, and agreements pertaining to wages.
(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Article 57. Wages

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

Wages are compensation for labour which the employer is obligated to pay to an employee for work performed depending upon its difficulty, quantity, quality, work conditions and the qualifications of the employee with due regard for the hours actually worked and also for the periods included in hours worked.

No restriction shall apply to the maximum amount of wages.
(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Article 58. Indexation of wages

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

Indexation of wages shall be related to inflation, and also in the event of their late payment in the manner and under the conditions prescribed by law.

Article 59. Minimum wage

(as amended by the Law of the Republic of Belarus dated 24 April 2014 N 134-Z)

Minimum wage (monthly and hourly) is a minimum social standard of the state pertaining to remuneration, which an employer is obligated to adopt as a lower boundary for remuneration of employees who fulfil their employee obligations under normal conditions and within normal working hours, which derive from legislation, local regulations and an employment contract.
(as amended by the Law of the Republic of Belarus dated 18 July 2018 N 219-Z)

The procedure for establishing and increasing the minimum wage shall be determined by legislation.

Article 60. Tariffs for remuneration of employees of state-funded organisations and of other organisations which are subsidized and of employees whose remuneration has been set equal to that for employees of state-funded organisations

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

ConsultantPlus: comment.

Concerning remuneration of employees of state-funded organisations, see Decree of the Council of Ministers of the Republic of Belarus dated 28 February 2019 N 138.

Tariffs for remuneration of employees of state-funded organisations and of other organisations which are subsidized and of employees whose remuneration has been set equal to that for employees of state-funded organisations shall be determined in accordance with the tariff grade coefficients in the table of tariffs (multiple of the base wage).

The base wage is a quantity used to calculate the salaries of employees of state-funded organisations and of other organisations which are subsidized and of employees whose wages are set equal to wages for employees of state-funded organisations. The amount of the base wage shall be determined by the Government of the Republic of Belarus.

The multiple of the base wage is a quantity which expresses the difficulty of a job and the level of qualification of employees in performing a job and which is not specified in the table of tariffs.

The tariff grade is a quantity which expresses the difficulty of a job and the level of qualification of employees.

The tariff grade coefficient in the table of tariffs is a quantity which expresses the differential between categories for calculating the salary of employees and which is calculated as the ratio between coefficients of the second and subsequent tariff grades to the coefficient of the first tariff grade.

The table of tariffs is an array of employees of state-funded organisations and of other organisations which are subsidized and of employees whose remuneration has been set equal to that for employees of state-funded organisations by their occupation and qualification groups and tariff grade (range of tariff grades) with their respective coefficients. The table of tariffs shall be established by the Government of the Republic of Belarus.

Salary is the amount of remuneration to employees of state-funded organisations and of other organisations which are subsidized and of employees whose remuneration has been set equal to wages for employees of state-funded organisations in return for performing job functions of a specific degree of difficulty and qualifications over a calendar month, excluding all incentive and compensatory payments, and calculated by multiplying the base wage by the tariff grade coefficient (multiple of the wage base) which has been established for a position (occupation).

Occupational and qualification groups are groups of vocations of employees and employment capacities formed by reference to a field of activity and on the basis of the requirement for a level of occupational training and qualification necessary for performing the respective occupational activity.

The list of types of organisations which are subsidized and whose remuneration of their employees has been set equal to that of employees of state-funded organisations shall be established by the Government of the Republic of Belarus or by a body it has duly authorized.

Article 61. Remuneration of employees

(as amended by the Law of the Republic of Belarus dated 18 July 2018 N 219-Z)

ConsultantPlus: comment.

Concerning certain issues in regulating remuneration of employees at commercial organisations, see Decree of the Council of Ministers of the Republic of Belarus dated 27 December 2004 N 1651.

ConsultantPlus: comment.

Concerning the base wage of the first grade, see the Reference Information.

ConsultantPlus: comment.

Concerning certain issues in remuneration of pedagogical employees covered by non-state-funded resources from income-producing activities, see Decree of the Council of Ministers of the Republic of Belarus dated 14 July 2017 N 530.

ConsultantPlus: comment.

As of 1 January 2020, Decree of the Ministry of Labour and Social Protection of the Republic of Belarus dated 31 May 2019 N 23 "On remuneration of employees" comes into force.

ConsultantPlus: comment.

As of 1 January 2020, Decree of the Ministry of Labour and Social Protection of the Republic of Belarus dated 3 June 2019 N 71 "On remuneration of employee in the field of education" comes into force.

ConsultantPlus: comment.

Commercial organisations and individual entrepreneurs have been granted the right to decide individually whether to adopt the Uniform Table of Tariffs under specific conditions of remunerating employees. (point 1 of Decree of the President of the Republic of Belarus dated 10 May 2011 N 181)

Remuneration of employees is the determination of the amounts, structure, conditions and procedure for payment of wages in return for their performance of work duties in accordance with this Code, other legal regulatory acts, collective contracts, agreements, local regulations and employment contracts.

Remuneration of employees, except for employees of state-funded organisations and of other organisations which are subsidized and of employees whose remuneration has been set equal to that for employees of state-funded organisations, shall be based on base wages (base salaries) specified by collective contracts, agreements or employers.

Remuneration of employees of state-funded organisations and of other organisations which are subsidized and of employees whose remuneration has been set equal to that for employees of state-funded organisations shall be based on a tariff system which incorporates a base wage and table of tariffs.

Remuneration of civil servants shall be based on monthly salaries fixed for positions specified in accordance with legislation.

Classification of work performed as belonging to employment capacities (occupations) and pay grades and an employee's possession of qualifications shall be determined by the employer in accordance with qualification guidelines which have been approved through the procedures stipulated by the Government of the Republic of Belarus and legal regulatory acts which regulate the activities of employees in particular employment capacities.

Employees who fulfil labour standards shall be assigned first to higher qualifications.

Article 62. Remuneration applied under specific conditions

(as amended by the Laws of the Republic of Belarus dated 20 July 2017 N 272-Z and 8 January 2014 N 131-Z)

ConsultantPlus: comment.

Concerning certain issues in provision of compensation for work conditions, see Decree of the Council of Ministers of the Republic of Belarus dated 14 June 2014 N 575.

For strenuous jobs and jobs with harmful and (or) hazardous work conditions and for jobs in areas subject to radioactive emissions due to the catastrophe at the Chernobyl nuclear energy plant (hereinafter **areas with radioactive emissions**), elevated remuneration shall in the manner prescribed by the Government of the Republic of Belarus or by a body it has duly authorized, and also by collective contracts, agreement and employers.

Article 63. Forms, systems and amounts of remuneration

ConsultantPlus: comment.

Concerning certain measures for improving state regulation of remuneration in commercial organisation and for individual entrepreneurs, see Decree of the President of the Republic of Belarus dated 10 May 2011 N 181.

ConsultantPlus: comment.

The amount of bonuses for high output and high quality work must account for at least 50 percent of the bonuses due. (point 3 of Decree of the Council of Ministers of the Republic of Belarus dated 9 November 1999 N 1748)

ConsultantPlus: comment.

Collective systems of remuneration may be adopted across an organisation as a whole and also across its structural subdivisions and for separated primary collective employees. (point 5 of Decree of the Ministry of Labour and Social Protection of the Republic of Belarus dated 2 May 2012 N 56)

Forms, systems and amounts of remuneration, including incentive (allowances, incentives, bonuses and other payments) and compensatory payments (additional payments in accordance with Articles 62, 67, 69 and 70 of this Code and other payments) shall be determined by the employer on the basis of a collective contract, agreement, other local regulations, and an employment contract. (first paragraph of Article 63 of the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Forms, systems and amounts of remuneration for civil servants shall be determined by legislation.

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z and 18 July 2019 N 219-Z)

Forms and systems for remuneration of employees of state-funded organisations and of other organisations which are subsidized and whose employees' remuneration has been set equal to that for

employees of state-funded organisations shall be determined by the employer, but the amount of remuneration shall be determined by legislation.

(as amended by the Law of the Republic of Belarus dated 31 December 2009 N 114-Z and 18 July 2019 N 219-Z)

Differentials in the amount of remuneration shall be applied depending on the difficulty and stressfulness of a job, its conditions and the level of qualification of employees.

The fifth paragraph of Article 63 has been excluded. Law of the Republic of Belarus dated 18 July 2019 N 219-Z.

ConsultantPlus: comment.

Concerning certain conditions for remuneration of chief officers of organisations depending upon the results of financial and industrial activities, see Decree of the Council of Minister of the Republic of Belarus dated 8 July 2013 N 597.

ConsultantPlus: comment.

Concerning improvements in the conditions of remuneration for heads (their deputies) of state organisations subordinate to the Government of the Republic of Belarus, see Decree of the Council of Minister of the Republic of Belarus dated 18 September 2002 N 1279.

ConsultantPlus: comment.

Concerning procedures for remuneration of bank employees, see the Decree of the Administration of the National Bank of the Republic of Belarus dated 11 September 2013 N 524.

Article 64. Remuneration of chief officers of organisations and their deputies

The amount of remuneration for the chief officer of an organisation and their deputies shall be determined by agreement among the parties as they conclude an employment contract in the circumstances stipulated by legislation.

Article 65. Notifying employees of the introduction of new condition or changes to the current conditions for remuneration

The employer shall notify employees of the introduction of new conditions or changes to the current conditions for remuneration at least one month in advance.

Article 66. Remuneration for performing jobs with various qualifications

In the event of performing jobs with various qualifications, employees who are remunerated on the basis of time, and also service providers, shall be paid for the job with the highest qualifications.
(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

The work of employees who are remunerated on a piecework basis shall be paid at the rates for the jobs performed.

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

In the event that, due to the nature of production, employees who are paid on a piecework basis are ordered to perform jobs subject to a tariff grade below their assigned one, the differential between grades shall be paid.

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

Article 67. Remuneration for combinations of employment capacities (occupations), expansion of scope of service (increases in the volume of work), performing the duties of a temporarily absent employee without exemption from a job specified by an employment contract or by instructions for a job (work)

(as amended by the Law of the Republic of Belarus dated 18 July 2019 n 219-Z)

Supplemental pay is due to employees who work for one and the same employer and, together with their principal job as specified by an employment contract (instructions for a job [work]), perform an additional job with another or the same employment capacity (occupation) without exemption from their principal job.

The additional job may take in the form of:

1) a combination of employment capacities (occupations), which is the performance, together with a job specified by an employment contract (instructions for a job [work]), of a different job in a vacant employment capacity (occupation) during the workday (shift) established for the employee;

2) expansion of the scope of service (volume of work), which is the performance, together with a job specified by an employment contract (instructions for a job [work]), of the same job in a vacant employment capacity (occupation) during the workday (shift) established for the employee;

3) performing the duties of a temporarily absent employee without exemption from a job specified by an employment contract (instructions for a job [work]) in a different employment capacity during the workday (shift) established for the employment capacity (occupation) or the same one during the workday (shift) established for the employee.

ConsultantPlus: comment.

As of 1 January 2020, Decree of the Ministry of Labour and Social Protection of the Republic of Belarus dated 3 April 2019 N 13 and confirmed by the Directive "On the amounts of and procedures for establishing incentive (other than bonuses) and compensatory payments stipulated by legislative acts and decrees of the Council of Ministers of the Republic of Belarus", point 14 of which sets the amount of supplementary pay for combinations of occupations (capacities), expanded scope of service (increase of the volume of work) or performing the job of a temporarily absent employee, comes into force.

The amount of supplementary pay shall be established by the employer with the consent of the employee; but for employees of state-funded organisations and of other organisations which are subsidized and for employees whose remuneration has been set equal to that for employees of state-funded organisations, the amount shall be established by the Government of the Republic of Belarus or by a body authorized by it.

The period during which an employee will perform an additional job and the amount of supplementary pay to the particular employee shall be established by means of an order (instruction) of the employer with consent in writing from the employee.

The employee shall have the right to decline in advance to perform an additional job, and the employer shall have the right to cancel the assignment of that job's performance with notification of that fact in writing to the other party.

Article 68. Remuneration for temporary transfer

ConsultantPlus: comment.

For temporary substitution of a substitute civil servant (except for a salaried substitute) remuneration is derived from the salary of the position and monthly supplementary payment for carrying out the organisational and administrative functions established for the position which is established for the position occupied by substitute. (point 7 of the Directive “On the procedure for remuneration of civil servants in state bodies” as confirmed by Decree of the Ministry of Labour and Social Protection of the Republic of Belarus dated 17 June 2103 N 56)

During temporary transfer with consent in writing from the employee (point 1 of the first paragraph of Article 32-1) and in connection with exigencies of production (point 2 of the first paragraph of Article 32-1), remuneration shall be paid in accordance with the job performed, but in an amount no less than the average wage for the previous job.

During temporary transfer to another job in the event of idling of operation (point 3 of Article 32-1), remuneration shall be in accordance with the job performed. In the event of temporary transfer of an employee to a lower-paid job, in which that employee meets production quotas or is paid on an hourly basis, the employee shall retain the average wages from their previous job; but an employee who does not meet production quotas shall receive remuneration in accordance with the work performed, but no less than their base wage (base salary) or salary.

Article 69. Compensation for overtime, state holidays, celebratory and weekend days
(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

For every hour of overtime, state holidays, celebratory days (first paragraph of Article 147) and weekend days, supplementary pay of overtime wages accrued for such time shall be paid to:

1) employees remunerated on a piecework basis in an amount not less than the piecework rate;

2) employees remunerated on the basis of time in an amount not less than their hourly base wage (base salary) or salary.

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

The exact amount of supplementary pay in state-funded organisations and of other organisations which are subsidized and for employees whose remuneration has been set equal to that for employees of state-funded organisations shall be established by the Government of the Republic of Belarus and in other organisations shall be established by an employment contract and (or) local regulations.

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Another unpaid leave day may, with the consent of the employee, replace supplementary pay for overtime and weekend days. In that event, one unpaid leave day shall be provided for an eight-hour workday (one day of leave for eight hours of overtime worked).

If working during state holidays and celebratory days (first paragraph of Article 147) should exceed the monthly standard for working hours, the employee, according to their preference, shall be offered another unpaid day of leave in addition to supplementary pay.

Article 70. Remuneration for night work

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z, 31 December 2009 N 114-Z, 8 January 2014 N 131-Z and 18 July 2019 N 219-Z)

ConsultantPlus: comment.

The amounts of supplementary pay for each hour of night work or night shift in a shift work schedule have been established by sub-point 1.6 of point 1 of Decree of the Ministry of Labour and Social Protection of the Republic of Belarus dated 21 January 2000 N 6).

ConsultantPlus: comment.

Civil servants for each hour of night work receive supplementary pay equal to 40 percent of the hourly salary for a position. (point 8 of the Decree of the Ministry of Labour and Social Protection of the Republic of Belarus dated 17 June 2103 N 56)

ConsultantPlus: comment.

As of 1 January 2020, Decree of the Ministry of Labour and Social Protection of the Republic of Belarus dated 3 April 2019 N 13 which adopted the Directive "On the amounts of and procedures for establishing incentive (other than bonuses) and compensatory payments stipulated by legislative acts and decrees of the Council of Ministers of the Republic of Belarus", point 13 of which sets the amount of supplementary pay each hour of night work (between 10 PM and 6 AM) or night shift in a shift work schedule (for prolongation of a shift for no more than 12 hours), comes into force.

For each hour of night work or night shift for a shift work schedule, supplementary pay shall be provided in an amount established by collective contracts, agreements or the employer, but not less than 20 percent of the hourly base wage (base salary) of the employee; and for employees of state-funded organisations and of other organisations which are subsidized and for employees whose remuneration has been set equal to that for employees of state-funded organisations, the amount shall be established by the Government of the Republic of Belarus or by a body it has duly authorized. For this purpose, a shift in which consists of more than 50 percent night work shall be deemed a night shift.

Article 71. Remuneration in the event that standards are not met, of defects, of idling of operations, and also during development of new processes (products)

In the event that standards are not met, defects occur, and operations are idled but not through fault of the employee, wages may not be less than two thirds of that employee's base wage (base salary) or salary.

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N219-Z)

In the event that standards are not met through fault of the employee, remuneration shall be for the work in fact performed.

Defects resulting in complete uselessness, as well as idling of operations through fault of the employee, shall not be subject to remuneration. Partial defect through fault of the employee shall be remunerated at a reduced rate depending upon the degree of value remaining in the product.

Items defective as a result of concealed defects in the materials processed, and also defects not through fault of the employee, and discovered after acceptance of the items by a quality control body shall be remunerated in the same amount as for products free of defect.

The amount of remuneration to employees during development of new processes (products) shall be determined by a collective contract and the employer.

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Article 72. Remuneration in the event of transfer or relocation to a lower-paid job

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z and 18 July 2019 N 219-Z)

In the event of transfer on the employer's initiative of an employee with their consent or in accordance with the findings of a medical advisory commission or a medical rehabilitation expert commission to another permanent or temporary lower-paid job, the employee shall retain the average wage of the previous job for at least two weeks from the day of transfer, except for temporary transfer in accordance with point 1 of the first paragraph of Article 32-1 of this Code.

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z, 8 January 2014 N 131-Z and 18 July 2019 N 219-Z)

In circumstances in which relocation of an employee (Article 31) results in a reduction in wages for reasons beyond the control of the employee, the employee's previous average wages shall be retained for two months from the day of relocation.

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

ConsultantPlus: comment.

Liability for infractions by employers or by their duly authorized agents of the procedures and time limits for payment of wages have been established in the first paragraph of Article 9.19 of the Administrative Offences Code of the Republic of Belarus.

Article 73. Time limits and frequency of payment of wages

ConsultantPlus: comment.

Payment of wages occurs regularly on the day specified by a collective contract (agreement) or, employment contract (contract), but at least once per month. (point 4 of Decree of the President of the Republic of Belarus dated 26 July 1999 N 29)

ConsultantPlus: comment.

In the event of arrears in payment of wages, the chief officer of an organisation is not to be paid any form of incentive, bonus or rewards. (third paragraph of the first section of sub-point 2.5 under point 2 of Decree of the Council of Ministers of the Republic of Belarus dated 8 July 2013 N 597)

Payment of wages shall take place regularly on the day specified in a collective contract, agreement or employment contract, but at least twice per month provided that no other frequency is specified by contract.

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

ConsultantPlus: comment.

Payment of wages to the chief officer of an organisation is not to take place before payment to the employees of that organisation and in proportion to the percentage (share) of wages paid to the employees. (point 4 of Decree of the President of the Republic of Belarus dated 26 July 1999 N 29)

Legislation may specify other time limits for payment of wages to specific categories of employees.

In the event that the period for payment of wages should coincide with weekend days (Article 136) or with state holidays and celebratory days (first paragraph of Article 147), payment shall take place on the day before them.

ConsultantPlus: comment.

On the matter of wages paid in foreign currency, see the clarification of the Ministry of Labour and

Article 74. Forms of payment of wages

ConsultantPlus: comment.

If an employment contract is concluded with an employee outside the boundaries of the Republic of Belarus, that employee's wages may be paid in a foreign currency in accordance with the employment contract that has been concluded. (communication from the National Bank of the Republic of Belarus dated 1 September 2014 N 31-15/336)

ConsultantPlus: comment.

Remuneration of diplomatic employees in diplomatic missions and consular posts is in foreign currency and Belarusian rubles. (point 54 of the Provisions of Diplomatic Service of the Republic of Belarus as confirmed by Decree of the President of the Republic of Belarus dated 15 May 2008 N 276)

ConsultantPlus: comment.

According to the clarification from the Ministry of Labour and Social Protection of the Republic of Belarus “On payment of wages in foreign currency” (posted online at the official website of the Ministry on 15 August 2016), an employment contract may specify the amount of wages in a foreign currency. It is understood that payment of wages in any case must be in Belarusian rubles.

Wages shall be paid in the currency units of the Republic of Belarus.

With the consent of the employee, it is permissible to replace, entirely or in part, monetary payment with in-kind payment (mixed form of payment). In-kind payment when substituted for monetary payment should be suitable for personal consumption and profitable for employees and their families.

In-kind payment shall not take the form of goods which are on a list approved by the Government of the Republic of Belarus.

Article 75. Place for payment of wages

Payment of wages to employees shall ordinarily be made in the place where they perform work.

In the event that an employee is carrying out an assignment from the employer away from the workplace (at a client's organisation, on a business trip, pursuing continuing adult education at the direction of the employer), then upon the employee's request the employer shall at their own expense send the employee wages due.

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Upon the employee's request, wages may be transferred, entirely or in part, to a bank account.

Article 76. Reserve fund for wages

In order to ensure payment of wages due to employees, and also payments stipulated by legislation, payments guaranteed by collective contracts and employment contracts and compensatory payments in the event of an employer's insolvency (bankruptcy); liquidation of an organisation; cessation of operations at a branch, representative office or other separate subdivision of an organisation in a different locality; cessation of the activities of an individual entrepreneur; and in other circumstances stipulated by legislation – employers shall create a reserve fund for wages.

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

The amount in a reserve fund, its basis and the procedure for creating and maintaining one shall be specified by the Government of the Republic of Belarus.

Article 77. Time limits for final settlement upon dismissal

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Upon dismissal of an employee, all payments due them from the employer on the day of dismissal (except for payments established by a system of remuneration which determines the amount of such payments according to the results of work over a month or other reporting period) shall be executed no later than the day of dismissal. In the event that the employee has not worked on the day of dismissal or that an employment contract for a probationary period is terminated on the day of its expiration, the corresponding payments shall be executed no later than the day following the day on which the employee submits a request for their settlement.

In the event of a dispute concerning the amount of payments due an employee upon dismissal, the employer shall, within the period specified in the first paragraph of this Article, pay such sums as are not contested by the employee.

ConsultantPlus: comment.

Requests for payment of wages after the death of an employee may be submitted to the person responsible within six months of the day on which inheritance proceedings are opened. (point 2 of Article 1090 of the Civil Code of the Republic of Belarus)

All payments (except those established by a system of remuneration which determines the amount of such payments according to the results of work over a month or other reporting period) not received by the day on which an employee dies shall be paid to his family or other dependents as of the date of death no later than seven calendar days after the day on which the relevant documents are submitted to the employer.

Payments established by a system of remuneration which determines the amount of such payments according to the results of work over a month or other reporting period shall be executed according to the procedures established by local regulations no later than on the day of payment to the organisation's employees of wages for the reporting period.

Article 78. Liability for delays in settlement on the day of dismissal

(in versions of the Law of the Republic of Belarus dated 20 July 2007 N 272-Z and 8 January 2014 N 131-Z)

In the event of failure through fault of the employer to pay within the period specified in the first paragraph of Article 77 of this Code the amounts due an employee on the day of dismissal, the employee shall have the right to recover from the employer the average wage for each day of delay and, in the event of failure in part to pay such sums, in the proportion not paid upon calculating the monetary sums.

Article 79. Liability for delays in issuing the cumulative work record

ConsultantPlus: comment.

In the event of failure through fault of the employer to issue the cumulative work record to an

employee, the day of dismissal is moved to the day on which the cumulative work record is issued. The employer is to issue an order (instruction) concerning the new day of the employee's dismissal (curtailment of an employment contract [contract]) and also make an entry in the cumulative work record. (point 73 of Decree of the Ministry of Labour and Social Protection of the Republic of Belarus dated 16 June 2014 N 40)

In the event of failure through fault of the employer to issue the cumulative work record to an employee, the employee shall be paid the average wage for the entire period of involuntary absence from work, and the day of dismissal shall be changed to the day on which the cumulative work record is issued.

Article 80. Settlement sheets

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

The employer shall upon payment of wages provide each employee with a settlement sheet which indicates the component parts of wages due the employee for the corresponding period, the amounts withheld from wages, and also the total amount of wages payable.

The form of the settlement sheet shall be determined by the employer.

CHAPTER 7 CALCULATION OF AVERAGE WAGES

Article 81. Calculation of the average wages which are retained during employment (annual vacation and supplemental) leaves and social (for pursuing education) leaves

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

The conditions and procedures for calculating the average wages which are retained during employment (annual vacation and supplemental) leaves and social (for pursuing education) leaves and payment of monetary compensation for unused employment leave shall be determined by the Government of the Republic of Belarus or by a body authorized by it.

Article 82. Calculation of the average wage when fulfilling state and civic obligations and in other circumstances stipulated by this Code

The average wage shall be calculated for payment during periods of:

1) fulfilment of state and civic obligations, transfers to work in another workplace, or in other circumstances stipulated by legislation are derived from the wages accrued by an employee for the two calendar months (from first day to first day) preceding the start of such payments;
(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

ConsultantPlus: comment.

In a recovery for an employee the average wage is offset by severance benefits paid and by compensatory payments related to dismissal; average wages received when working for a different employer after unlawful dismissal; benefits for temporary incapacity to work and payments to a plaintiff within a period of paid involuntary absence from work. (third paragraph of point 51 of Resolution of the Plenum of the Supreme Court of the Republic of Belarus dated 29 March 2001 N 2)

2) involuntary absence from work when an employee is reinstated in a former job, when determining the amount of severance benefits, and in other circumstances are derived from the wages

accrued by an employee for the two calendar months (first day to first day) preceding the month of dismissal.

(point 2 of the first paragraph of Article 82 as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

The procedure for calculating the average wage shall be determined by the Government of the Republic of Belarus or by a body it has duly authorized.

Article 83. Application of adjusting coefficients in calculating average wages

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

In the event that, during a period in which an average wage is calculated or during a period in which payments are made on the basis of an average wage, the base wages (base salaries), salaries or salaries fixed for particular positions are increased, then the calculation of the average wage shall be according to the procedure established for the preceding period with application of adjusting coefficients.

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

The procedure for applying adjusting coefficients to the calculation of average wages shall be determined by the Government of the Republic of Belarus or by a body it has authorized.

Article 84. Periods excluded from the application of average wages

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Periods in which employees have been exempted in accordance with legislation from their principal job with partial retention of wages or without pay according to the procedures and in the circumstances determined by the Government of the Republic of Belarus or by a body duly authorized by it shall be excluded from the calculation of average wages for an reporting period.

Article 85. List of payments taken into account in calculating average wages

The list of payments taken into account in calculating average wages shall be determined by the Government of the Republic of Belarus or by a body duly authorized by it.

CHAPTER 8

LABOUR STANDARDS AND PIECEWORK RATES

ConsultantPlus: comment.

The choice of a method for regulating work is determined by the nature of the work regulated and the conditions under which it is performed. (third paragraph of point 5 of the Instruction "On the procedure for organisations to regulate work" as approved by the Ministry of Labour and Social Protection of the Republic of Belarus dated 21 March 2008 N 53)

ConsultantPlus: comment.

Guidelines for establishing standards and rules for the regulation of workers have been approved by the Ministry of Labour and Social Protection of the Republic of Belarus dated 26 November 2004 N 134.

Labour standards are standards for the regulation of production, times, services, amounts and regulated tasks which are established for employees in accordance with an attained level of skill, technology, organisation of production and labour, and for particular categories of workers also with due regard for factors of physiology, gender and age.

Under conditions with collective forms of organisation and remuneration, consolidated and compound standards may also be implemented.

Article 87. Establishing, replacing and revising labour standards

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

The employer shall establish labour standards and ensure their replacement and revision with participation of trade unions.

Inter-sectoral, sectoral and other labour standards shall be developed and approved in accordance with established procedures for similar kinds of jobs.

Employees shall be notified in writing at least one month in advance of the establishment, replacement and revision of labour standards.

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Article 88. Determining the rates of piecework remuneration

For piecework remuneration, rates shall be derived from the established categories of work, base wage (base salary), fixed salary and production quotas (time quotas).

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

The piecework rate shall be determined by dividing the hourly base wage (hourly base salary), or hourly fixed salary corresponding to the grades of work performed by the hourly production quota; or by multiplying the hourly base wage (hourly base salary), or hourly fixed salary corresponding to the grades of work performed by the established time standards in hours or days.

(second paragraph of Article 88 as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Article 89. Determining normal conditions for meeting labour standards

The employer shall ensure normal conditions for workers to meet labour standards. Deemed normal conditions are:

- 1) maintaining commissions for and volume of work;
- 2) maintaining machinery, machine tools and devices in good order;
- 3) keeping technical documentation readily available;
- 4) providing materials of suitable quality and tools necessary for performing work, and making them readily available;
- 5) making electricity, gas and other sources of power for production readily available;
- 6) providing healthful and safe work conditions (adherence to the requirements of occupational safety, lighting, heating and ventilation, eliminating harmful effects of noise, radiation, vibration and other harmful industrial factors).

(point 6 of Article 89 as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

CHAPTER 9

GUARANTEES AND COMPENSATIONS

Article 90. The concept of guarantees and compensations

Guarantees are the means, methods and conditions through which the rights established for employees are ensured.

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

ConsultantPlus: comment.

Compensation for expenses to members of the board of directors (supervisory board) of a commercial entity were specified in chapter 4 of recommendations for reimbursements to members of a board of directors (supervisory board) of commercial entities as contained in a communication from the Ministry of the Economy of the Republic of Belarus dated 5 October N 28-02-11/8964.

Compensations are monetary payments arranged in order to reimburse employees for expenses related to their performance of work duties.

Article 91. Business trips

A trip made by an employee on the instruction of the employer for a specific length of time in order to perform a task away from the permanent workplace shall be deemed a business trip.

Business travel of employees whose permanent job takes place during travel or is of a traveling or mobile nature, as well as travel within the population centre where the employer is located, shall not be deemed a business trip.

Article 92. Scheduling working hours and time off during business trips

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

ConsultantPlus: comment.

If the work schedule (shifts) arranged at the destination for a business trip differs from that at the locality of the permanent job, then the work schedule of a driver is based on actual duration as confirmed by documents from the business trip destination. (third paragraph of point 20 of the Provisions on Work Schedules and Time Off for Drivers of Automotive Transport as approved by Decree of the Ministry of Transport and Communication of the Republic of Belarus dated 25 November 2010 N 82)

The schedule of working hours and time off established at a business trip's destination shall apply to employees on business trips.

ConsultantPlus: comment.

The procedure for assigning state, governmental and parliamentary delegations of the Republic of Belarus to business trips abroad, and also for employees of state bodies and other state organisations, is specified in the Provisions approved by Decree of the President of the Republic of Belarus dated 13 June 2005 N 131-Z)

Article 93. Assignment of business trips and its implementation

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

ConsultantPlus: comment.

The order (instruction) of an employer is the basis for issuing advances and reimbursement as stipulated by law of the expenses who has been assigned to a business trip. (second paragraph of point 2 of Decree of the Ministry of Finance of the Republic of Belarus dated 12 April 2000 N 35)

ConsultantPlus: comment.

The form for an order concerning a business trip has been established by a communication from the Department of Archives and Records Management of the Ministry of Justice dated 14 May 2007 N 25)

Assignment to a business trip shall be implemented through an order (instruction) of the employer.

ConsultantPlus: comment.

In accordance with the Charter of the Garrison and Guard Services of the Armed Forces of the Republic of Belarus, as approved by Order of the President of the Republic of Belarus dated 26 June 2001 N 355, all military servicepersons while on business trips shall have on their person a business trip certification document and shall present it upon request to their superiors and senior officers.

The necessity of issuing a business trip certification document shall be determined by the employer, unless otherwise established by legislative acts.

The form of business trip certification documents shall be established by the employer.
(the third paragraph of Article 93 as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Assignment to a business trip lasting more than 30 days shall be permissible only with the consent of the employee.

The day of departure on a business trip shall be deemed the day of departure of the train, airplane, bus or other means of transport from the locality of permanent employment of the employee on a business trip; and the day of return shall be deemed the day of the arrival of such transport at the locality of permanent employment. For departure of transport before 24:00 (midnight) inclusive, that day shall be deemed the day of departure; for departure after 0:00 and later, the following day shall be so deemed.

The time when work is finished on the day of departure shall be determined by agreement with the employer. In the event of arrival before the end of the workday, the matter of time of appearance for work shall be decided in the same manner.

Article 94. Deleted

(Article 94 has been deleted – Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Article 95. Guarantees and compensations during business trips

Employees assigned to business trip shall retain their job, employment capacity (occupation) and wages for the entire duration of a business trip, but not less than the average wage for all the workdays of a week according to the schedule at the place of permanent employment.
(as amended by Law of the Republic of Belarus dated 8 January 2014 N 131-Z and 18 July 2019 N 219-Z)

For business trips, the employer shall issue an advance and reimburse the employee for following expenses:

1) fares to the business trip destination and back;

ConsultantPlus: comment.

When civil servants are assigned to business trips, they are entitled to book hotel lodging and all forms of transport. (point 3 of Article 37 of the Law of the Republic of Belarus dated 14 June 2003 N 204-3)

ConsultantPlus: comment.

Concerning expenses for rental of lodging on business trips, see the communication from the Ministry of Finance of the Republic of Belarus dated 8 September 2017 N 4-16/33.

2) rental of lodging;

3) living away from the place of residence (per diem);
(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

4) other expenses incurred by the employee with the permission or foreknowledge of the employer.

The procedures and amounts for reimbursement of expenses and for guarantees and compensation during business trips shall be established by the Government of the Republic of Belarus. (third paragraph of Article 95 as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

The amounts which are prescribed by a collective contract, agreement, or an employer for reimbursement of expenses shall not be less than the amounts established for state-funded organisations.

(in versions of the Law of the Republic of Belarus dated 31 December 2009 N 114-Z and 8 January 2014 N 131-Z)

The fifth paragraph of Article 95 has been deleted – Law of the Republic of Belarus dated 18 July 2019 N 219-Z.

Article 96. Guarantees and compensations for relocation to work in another locality

(as amended by the Law of the Republic of Belarus dated 8 January N 131-Z)

Employees relocating to work in another locality by reason of transfer or hiring based on a prior agreement, graduates who have been assigned to a workplace by allocation or job placement and are relocating to another locality shall be reimbursed for:

1) the cost of fares for the employee, graduate and the members of their family (husband, wife, the children and parents of both spouses who are their dependents and who are residing with them) under the same conditions as apply to an employee assigned to a business trip;

2) the expense of moving possessions by railroad, waterway and automotive transport (of public kinds) weighing up to 500 kilogrammes for the employee or graduate themselves and up to 150 kilogrammes for each of the relocating family members (the expenses of moving a large amount of possessions may be paid for upon agreement between the parties);

3) per diem for each day of travel in accordance with the legislation concerning business trips;

4) a one-time benefit for each employee or graduate in the amount of their monthly base wage (base salary), salary fixed for a position at the new workplace and in the amount of one quarter of the employee's or graduate's benefit for each relocating family member;
(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

The cost of fares and moving possessions for family members, and also their one-time benefit shall be paid in the event that they relocated to the employee's new place of residence within one year day of actual provision of housing to the employee.

In the event that employees are transferred to work up to one year and their families do not relocate, then upon agreement between the parties the employee may be compensated for the expense of residence in the new location, provided that the amount of the reimbursed expense does not exceed half the amount of per diem.

The actual amount of compensations indicated in the third paragraph of this Article shall not be less than the amounts established for employees of state-funded organisations and of other organisations which are subsidized and of employees whose remuneration has been set equal to that for employees of state-funded organisation.

Article 97. Deleted

(Article 97 has been deleted – Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Article 98. Circumstances for refund of compensations for relocation to work in another locality

Compensations and payments stipulated by Article 96 of this Code shall be made for their intended purpose and shall be borne by the employer to which the employee is transferred, assigned or employed.

Compensations paid for relocation to another locality shall be reimbursed in full to the employer which has paid them in the event that the employee:

1) does not appear at work or refuses to appear without reasonable cause;

2) before the termination of the period stipulated by labour legislation, an employment contract or as a result of transfer, assignment or employment or, in the absence of a fixed period, before r one year on the job, has either been dismissed from employment of their own volition and without reasonable cause or has been dismissed for culpable acts which in accordance with this Code and other legislative acts constitute grounds for termination of an employment contract .

In the event of failure to appear at work or refusal to appear with reasonable cause, the employee shall refund the funds received except for the travel expenses incurred.

Article 99. Compensations for work of a traveling or mobile nature and for shift work

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Employees shall receive compensations for work of a traveling or mobile nature, shift work, work involving continual travel, and for work away from the locality of residence (field allowance).

The procedures, conditions and amount of the compensations stipulated by the first paragraph of this Article shall be determined by the national state administrative bodies which execute state policy in labour affairs.

Article 100. Guarantees for employees elected to elective employment capacities in state bodies

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Employees exempt from work due to their election to elective employment capacities in state bodies after the expiration of their authority in an elective employment capacity shall be reinstated in their previous job (employment capacity, occupation) or, in their absence, in another job (employment capacity, occupation) of equivalent value, except in the event of liquidation of an organisation, termination of the operations of a branch office, of a representative office or of another separately established subdivision in a different location, relocation, or of termination (cessation) in accordance with legislative acts of the activities of a lawyer acting as an individual to provide legal counsel, a notary conducting professional activities in a notarial office, an individual person conducting activities in the field of agro-ecotourism, or an individual entrepreneur.

Article 101. Guarantees for employees during fulfilment of their state or civic obligations

While fulfilling state or civic obligations, provided that these obligations may be lawfully fulfilled during work hours, employees shall be guaranteed retention of their jobs, employment capacities (occupations) and average wages at the expense of the respective state or other bodies and organisations.

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Guarantees in accordance with legislation shall be provided to employees conscripted to fulfil military obligations.

Average wages shall be retained in the event of fulfilling the following state or civic obligations during work hours;

1) exercising voting rights;

2) exercising deputy authority or the authority of a member of the Council of the Republic of the National Assembly of the Republic of Belarus in the circumstances prescribed by legislation;

3) participating as delegates in sessions, plenums and conferences convened by state bodies and, in the circumstances stipulated by collective contracts and agreements, those convened by trade unions and other public associations.

ConsultantPlus: comment.

Liability for obstructing appearance of a people's assessor has been established by Article 24.2 of the Administrative Offences Code of the Republic of Belarus.

ConsultantPlus: comment.

Liability for obstructing appearance as a witness, victim or to give testimony has been established by Article 403 of the Criminal Code of the Republic of Belarus.

4) appearing before bodies of inquiry, preliminary investigation by a prosecutor and in court in the capacity of witness, victim, expert, specialist, interpreter, or witness of investigations, and also

participating in judicial proceedings in the capacity of people's assessor, public prosecutor, public defender, and representative of a public association or labour collective;

5) participating in collective bargaining according to the procedures and under the conditions stipulated by collective contracts and agreements, or in their absence by agreement between the parties to collective bargaining;

5-1) participating in the capacity of labour arbiter during consideration of a collective labour dispute;

(point 5-1 of the third paragraph of Article 101 was inserted by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

6) participating on a commission for provision of pensions at local executive and administrative bodies and medical and rehabilitation expert commissions in the capacity of members of such commission who were designated by trade unions;

7) answering a summons from a commission for provision of pensions as a witness providing testimony concerning seniority;

8) participating as a member of a freelance or voluntary firefighting companies in extinguishing fires;

(point 8 of the third paragraph of Article 101 as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

9) fulfilling other state or civic obligations in circumstances stipulated by legislation.

Article 102. Guarantees and compensations for employees for advancing their qualifications, retraining and internship at the direction of the employer

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z and 18 July 2019 N 219-Z)

During advancement of qualifications, retraining, occupational training and internship at the direction of the employer an employee shall retain the job, employment capacity (occupation) and receive payments as prescribed by the Government of the Republic of Belarus.

Article 103. Guarantees for employees referred for medical examination and medical screening in state healthcare organisations

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

While at state healthcare organisation for medical examination or medical screening, employees obligated to undergo such examinations and screening during work hours shall retain the average wage for their job.

Article 104. Guarantees for employees who donate blood or its components

(as amended by the Law of the Republic of Belarus dated 8 January 2015 N 238-Z)

ConsultantPlus: comment.

Information concerning exemption of donors from work, service and training during medical examination and also information concerning guarantees and compensations for donors has been made available with Decree of the Ministry of Health of the Republic of Belarus dated 24 June 2010 N 71.

Employees who donate blood or its components shall have guarantees in the manner and under the conditions stipulated by this Code and by other legislative acts pertaining to donation of blood and its components.

Article 105. Guarantees for employees who are inventors and innovators

Work involving introducing inventions or innovations and performed for the same employer by an employee who is their author shall be paid an amount no less than average wages.
(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

When introducing inventions or innovations for a different employer, exemption from work with retention of the employment capacity (occupation) and remuneration for such work in an amount no less than average wages shall be arranged by agreement between the employer and the employee.
(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Article 106. Compensation for depreciation of vehicles, equipment, tools and devices belonging to the employee

ConsultantPlus: comment.

Expenses of an organisation for fuel and lubricants used in operating means of transport by an employee to meet the needs of that organisation may be considered expenses for tax purposes.
(communication of the Ministry of Taxes and Duties of the Republic of Belarus dated 12 September 2011 N 2-2-9/1632)

Employees who use their vehicles, equipment, tools and devices for the needs of the employer shall have the right to compensation for depreciation (amortization) in the amount and according to the procedures for payment determined by agreement with the employer.

Article 107. Deductions from wages

Deductions from wages shall be imposed only in the circumstances prescribed by legislation.

Deductions from wages of employees for settlement of debts to their employers may be implemented by an instruction of the employer:

1) for return of an advance issued against wages; for return of overpayments due to accounting errors; to repay an unused advance or one not repaid promptly which were issued for a business trip or relocation to another locality, for business expenses provided that the employee does not dispute the amount of the deduction. In such circumstances, the employer shall have the right to issue an instruction concerning the deduction no later than one month from the day established for return of the advance, repayment of debt, or from the day of erroneous calculation of a payment;

2) for the leave days not earned in the event that an employee has been dismissed before the end of an employment year on the basis of which they have already received annual leave. Deductions for those days shall not apply in the event that the employment contract has been terminated by agreement between the parties, in the event that the employee has been dismissed on grounds specified in points 2, 4 and 5 of the second paragraph of Article 35, points 1 to 3 and 5 of Article 42, or points 1, 2, 6 and 8 of Article 4 of this Code, in the event that the employment contract has been terminated by request (demand) of the employee in connection with receiving training at the direction of the employer or qualification for a pension, and also in the event that upon dismissal no payments

have been accrued for the employee or in the event that the employer who had the right to deduct payments failed to exercise it or deducted only part of what was owed by the employee.
(point 2 of the second paragraph of Article 107 as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

3) for reimbursement of damage to the employer caused by fault of the employee in the amount of up to three average monthly wages (first paragraph of Article 408)
(in version of the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Excess wages paid to an employee by an employer, including by reason of improper application of the law, may not be recovered from the employee, except in the event of an accounting error.

In the circumstances stipulated by legislation, the employer shall arrange deduction from an employee's wages upon the employee's application in writing for wired payment from a bank account.
(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

Article 108. Limitation of the amount deducted from wages

ConsultantPlus: comment.

The amount of deductions from wages and equivalent income is calculated from the total remaining after deduction of taxes and mandatory insurance premiums to the State Non-budgetary Fund for Social Protection of the Population of the Republic of Belarus. (fourth paragraph of point 84 of Decree of the Ministry of Justice of the Republic of Belarus dated 7 April 2017 N 67)

For each disbursement of wages, the total amount of deductions shall not exceed 20 percent, but in the circumstances stipulated by legislation concerning enforcement proceeding shall not exceed 50 percent of the wages due the employee.
(as amended by the Law of the Republic of Belarus dated 24 October 2016 N 439-Z)

For deductions from wages executed in accordance with point 3 of the second paragraph of Article 107 of this Code, for each disbursement of wages the amount of such deductions (and for penalties, including those imposed by enforcement documents, the total amount of all deductions) shall not exceed 50 percent of wages due in payment to the employee, provided that the option to deduct a larger amount (total amount of all deductions) has not been established by legislative acts.
(the second paragraph for Article 108 was inserted by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

For deduction from wages in accordance with certain enforcement documents, the employee shall retain at least 50 percent of wages.

The limitations established in this Article shall not apply in the event of:
(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

collection of child-support alimony for minor children and recovery of state expenses for care of children who are wards of the state. The employee shall retain at least 30 percent of wages;

recovery of damage from persons serving a sentence of imprisonment or imprisonment for life, except for those serving a sentence in penal colonies and settlements, for damage caused by a crime, moral harm and harm caused to the life and health of a citizen due to the commission of a crime. The employee shall retain at least 10 percent of wages;

recovery of damage from persons subject to other forms of penalty for damage caused by a crime, moral harm and harm caused to the life and health of a citizen due to commission of a crime. The employee shall retain at least 30 percent of wages and equivalent income.
(fourth paragraph of Article 108 in the Law of the Republic of Belarus dated 20 July 2007 N 272-Z and dated 18 July 2019 N 219-Z)

Article 109. Prohibition on deducting certain amounts payable to employees

(as amended by the Laws of the Republic of Belarus dated 20 July 2007 N 272-Z and 18 July 2019 N 219-Z)

Deductions for amounts stipulated by legislation for severance benefits, compensations and other payments not subject to recovery in accordance with legislation shall not be permissible.

ConsultantPlus: comment.

For the production calendar, see the Reference Information.

CHAPTER 10 THE WORKDAY

Article 110. The workday and its regulation

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

The workday is the time in which the employee in accordance with this Code, other legislative acts pertaining to labour, local regulations and the terms and conditions of an employment contract is obligated to be at the workplace or another place established by agreement with the employer and is obligated to perform work duties, and also working for a period beyond the established workday (overtime, work on weekends, and also on state holidays and celebratory days [first paragraph Article 147]) at the suggestion, order or with the foreknowledge of the employer.

The workday shall be regulated by the establishment of standards for its duration over a calendar week (work week) and over a day (workday, work shift).

Regulation of the duration of the workday shall be arranged by the employer with due regard for the limitations specified in this Code and in collective contracts.

Article 111. Normal duration of the workday

Duration of the workday equal to the full (Article 112) or reduced (Articles 113 and 114) standard for it established by this Code shall be deemed normal.

In the event that the employer or a collective contract has not specified the duration of the workday, then the maximum duration established in Articles 112-114 of this Code shall be deemed its standard duration.

(as amended by the Law of the Republic of Belarus dated 8 January N 131-Z)

Article 112. Full standard duration of the workday

The full standard duration of the workday shall not exceed 40 hours per week.

Article 113. Reduced duration of the workday for employees in jobs with harmful and (or) hazardous work conditions

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

A reduced duration of the workday not to exceed 35 hours per week shall apply to employees occupying jobs with harmful and (or) hazardous work conditions based on the certification of work conditions at workplaces.

(first paragraph of Article 113 as amended by the Law of the Republic of Belarus dated 8 January N 131-Z)

The total duration of the workday with the inclusion of time to deliver employees to underground workplaces and return them to the surface shall not exceed 37 hours and 45 minutes per week.

The list of industries, workshops, occupations and employment capacities with harmful and (or) hazardous work conditions, working in which entails the right to reduced duration of the workday shall be approved by the Government of the Republic of Belarus.

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z, 8 January 2014 N 131-Z and 18 July 2019 N 219-Z)

Article 114. Reduced duration of the workday for particular categories of employees

A reduced duration of the workday shall apply to employees under the age of eighteen: no more than 23 hours per week for those from fourteen to sixteen years of age and no more than 35 hours per week for those from sixteen to eighteen years of age.

The duration of the workday for students in secondary schools, in vocational and technical training, special education at the secondary level and who work during the academic year during their time after instruction shall not exceed half of the maximum duration of the workday stipulated by the first paragraph of this Article for persons of the corresponding age.

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z and 8 January 2014 N 131-Z)

Duration of the workday not to exceed 35 hours per week shall apply to persons with disabilities of category I and II.

The duration of the workday for employees in locations with radioactive contamination in an evacuation (exclusion) zone, including those temporarily assigned or on business trips to such zones, shall not exceed 35 hours per week.

(as amended by the Law of the Republic of Belarus dated 20 July 2007 and 12 May 2009 N 19-Z)

For particular categories of employees (teachers, physicians and others) reduced duration of the workday shall be established by the Government of the Republic of Belarus or by a body duly authorized by it.

Article 115. Regulation of the duration of the workday (shift)

The duration of the workday (shift) shall be determined by the regulations of internal work procedures or work (shift) schedule in compliance with the standards for duration of the work week established for employers by Articles 112 through 114 of this Code.

The duration of the workday (shift) shall not exceed:

1) for employees from fourteen to sixteen years of age, 4 hours and 36 minutes, and for employees from sixteen to eighteen years of age, eight hours;

2) for students in secondary schools, in vocational and technical training, special education at the secondary level and who work during the academic year during their time after instruction and are from fourteen to sixteen years of age, 2 hours and 18 minutes; and for such students who are from sixteen to eighteen years of age, 3 hours and 30 minutes;

3) for persons with disabilities of categories I and II, seven hours;

4) employees in locations with radioactive contamination in an evacuation (exclusion) zone, including those temporarily assigned or on business trips to such zones, seven hours.
(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z, 12 May 2009 N 19-Z and 8 January 2014 N 131-Z)

For employees occupying jobs with harmful and (or) hazardous work conditions for which a reduced duration of the workday applies, and also for employees in jobs of a special nature, the maximum permissible duration of daily work (shift) shall not exceed:
(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

1) for a 35-hour work week, seven hours;
(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

2) for a 30-hour or less work week, six hours.

Article 116. Duration of the workday during a workday immediately preceding a state holiday or celebratory day

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)
(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

The duration of the workday during a workday immediately preceding a state holiday or celebratory day (first paragraph of Article 147) shall be reduced by one hour.
(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

In the event that under the conditions of production reduction of the workday as stipulated by the first paragraph of this Article is not possible, then the extended workday shall be compensated as agreed upon by the parties with provision of an additional day of leave paid in the ordinary amount for the cumulative total of such hours or by increased remuneration in the amount specified for overtime (first paragraph of Article 69).
(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Article 117. Night work

The time between 10 PM and 6 AM shall be deemed night.
(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Night work shall have a duration of the workday (shift) reduced by one hour with a corresponding reduction in the work week.

This rule shall not apply to employees for whom a reduction in the workday has already been stipulated (Article 113 and 114), and also in the event that such a reduction is not possible under the conditions of production, including in continuous production, or in the event that the employee has been recruited exclusively for night work.

Night work, even in the event that it is for a part of a workday or shift, shall not be permissible for:

- 1) pregnant women;
- 2) deleted;
(point 2 deleted – Law of the Republic of Belarus dated 20 July 2007 N 272-Z)
- 3) employees under eighteen years of age.

Persons with disabilities provided that such work is not prohibited for them by an individual programme for rehabilitation, and also women who have children under fourteen years of age, may be recruited for night work only with their consent in writing.

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z, 17 July 2009 N 48-Z and 18 July 2019 N 219-Z)

Article 118. Part-time work

By agreement between the employee and the employer, either at the time of recruitment or subsequently, a part-time workday or part-time work week may be established.

The employer shall establish part-time work for employees specified in the second paragraph of Article 289 of this Code.

For part-time workdays, the standard for duration of the workday established by the regulations of internal work procedures or work schedule shall be reduced.

For part-time work weeks, the number of workdays in a week shall be reduced.

Part-time time work may also be composed of a reduction in the standard duration of the workday simultaneously with a reduction of the number of workdays in a week.

An agreement to part-time work may be concluded for either a fixed or an indefinite period.

Article 118-1. Unregulated workday

(inserted by the Law of the Republic of Belarus dated 20 July, 2007 N 272-Z)

An unregulated workday is a special work schedule according to which particular employees may, when necessary, perform their work duties on an occasional basis outside the established standards for duration of the workday in accordance with a written or oral order (instruction) from the employer or on the employee's own initiative with foreknowledge of the employer or of a duly authorized agent of the employer. Possible extension of the workday which exceeds the standard for the workday is not overtime work and shall be compensated by provision of supplementary leave for an unregulated workday (Article 158).

Categories of employees to whom an unregulated workday shall not apply shall be determined by the Government of the Republic of Belarus or by a body duly authorized by it.

Article 119. Overtime work

Work performed by an employee at the suggestion, instruction or with the foreknowledge of the employer when such work exceeds the duration of the workday established for that employee as stipulated by regulations of internal work procedure or a work (shift) schedule shall be deemed overtime.

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Work performed outside the established duration of the workday shall not be deemed overtime work in the event that:

1) it is performed on the initiative of the employee without a suggestion, instruction or the foreknowledge of the employer;

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

2) the employees work part-time outside the full-time workday (shift) or full-time work week;

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

3) the employees work part-time concurrently for the same employer, and also for a different employer, in excess of their principal employment;

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

4) the employees are working from home.

Article 120. Limitations on overtime work

Recruitment to overtime shall be permissible only with the consent of the employee, except for circumstances specified by Article 121 of this Code, and also collective contracts and agreements.

Overtime work shall not be permissible for:

1) pregnant women;

2) deleted;

(point 2 deleted – Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

3) employees under eighteen years of age;

4) employees pursuing general secondary education, special education at a secondary level in evening classes or by distance learning, and vocational and technical training on days when instruction takes place;

(point 4 of Article 120 as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

5) employees exempt from overtime in accordance with the findings of a medical advisory commission;

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

6) other categories of employees in accordance with legislation.

Women with children under the age of fourteen (under the age of eighteen for children with disabilities) and persons with disabilities may be recruited for overtime work only with their consent in writing, and for persons with disabilities only in the event that such work is not prohibited by their individual rehabilitation programme.

(as amended by the Law of the Republic of Belarus dated 17 July 2009 N 48-Z and 18 July 2019 N 219-Z)

Article 121. Exceptional circumstance in which overtime work is permissible without the employee's consent

Overtime work without the consent of the employee shall be permissible only in the following exceptional circumstances:

1) to perform work in order to avert catastrophes, industrial accidents, and to immediately mitigate their consequences or the consequences of natural disasters, to avert accidents and to provide medical assistance;

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

2) to perform work necessary for public welfare by providing water, gas, heating, lighting, plumbing, transport or communication services and for eliminating accidental or unanticipated circumstances which interfere with their proper functioning.

Article 122. Excessive overtime work

Overtime work shall not exceed 10 hours per work week and 180 hours per year for each employee, and the duration of a workday including overtime work shall not exceed 12 hours.

(first paragraph of Article 122 as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

The maximum amount shall not include overtime work performed in the circumstances specified in Article 121 of this Code.

The Government of the Republic of Belarus shall have the right to reduce for a specific period the maximum amount of overtime work for the entire nation or for sectors and separate territories in order to enhance employment opportunities for the unemployed.

The employer shall maintain precise accounting of the overtime work performed by every employee. Information about the amount of it shall be made available to the employee on demand.

Article 123. Schedule of working hours

The schedule of working hours is a procedure by which the employer allocates to employees the standard duration, as stipulated by this Code, of daily and weekly work and rest periods for a workday and for leaves that extend for a day, week, month or other calendar periods.

The schedule of working hours determines the beginning and end of the workday (shift), the time for lunch breaks and other breaks, and the sequence for alternation of workers through shifts, workdays and days off.

The schedule of working hours for employees shall be developed from the operational schedule in use by the employer and is determined by the internal work regulations or work (shift) schedule.

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

The fourth paragraph of Article 123 has been deleted – Law of the Republic of Belarus dated 18 July 2019 N 219-Z.

ConsultantPlus: comment.

For drivers who work in shifts, a shift schedule is to be developed and in other circumstances a work schedule. (third paragraph of point 3 of the Provisions on Work Schedules and Time Off for Drivers of Automotive Transport as approved by Decree of the Ministry of Transport and Communication of the Republic of Belarus dated 25 November 2010 N 82)

The work (shift) schedule shall be approved by the employer with the consent of a trade union.

Employees shall be notified of the established schedule of working hours no later than one month prior to its application.

In the event of exigencies of production (second paragraph of Article 33), the employer shall have the right to change the sequence of alternation of employees in shifts and shall inform the employee of it no later than a day in advance of the shift.

(sixth paragraph of Article 123 of the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Article 124. Five-day and six-day work weeks

A five-day work week with two days off or a six-day work week with one day off shall be established by the employer with the consent of a trade union.

In the event that the total of hours for five workdays in a five-day work week is less than the standard for a work week, then the time not worked shall be compensated for as they arise by sacrificing one or two (except for Sundays) weekend days which will be scheduled as workday in the work (shift) schedule.

The total hours worked according to a shift schedule for a five- or six-day work week must correspond to the accounting standard for working hours in each calendar year, which shall be established by the Government of the Republic of Belarus or by a body authorized by it.

Article 125. Shift work and working hours during shift work

(heading as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

Working in two or more shifts shall be deemed shift work. Shift work shall be implemented in circumstances in which the operation of the production process (work) exceeds the established duration for the workday, and also for the purpose of more efficient use of equipment and increasing production (work, services) output.

(first paragraph of Article 125 as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

The schedule of working hours for shift work shall be determined by the shift schedule in accordance with Article 123 of this Code. The duration of a shift therefore shall not exceed 12 hours. Other durations of shifts for particular categories of employees may be established by the Government of the Republic of Belarus. Employees shall alternate in shifts equally. Working two shifts in succession shall be prohibited.

(second paragraph of Article 125 as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

The minimum duration of time off between shifts (from the end of one to the beginning of the next) shall be, together with work breaks for rest and meals, no less than twice the duration of working hours for the previous shift.

In the event that the duration of a shift according to the schedule is more than eight hours, the reduction in the duration of daily time off between shifts shall be compensated for by an increase in uninterrupted time off.

Article 126. Cumulative accounting of working hours

(125 as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

Cumulative accounting of working hours may be implemented in organisations for which adhering to a daily or weekly duration of working hours for a given category of employees is impossible or not economically feasible.

The daily duration of working hours for cumulative accounting may be more or less than the established standard for duration of working hours per week (Article 112 to 114). The daily duration of working hours therefore shall not exceed 12 hours on average for a reporting period.
(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

The total of working hours according to the work (shift) schedule for a reporting period shall not exceed the standard hours for that period as calculated in accordance with Articles 112 to 117 of this Code.

The period within which the average standard for duration of working hours per week for a given category of employees (Articles 112 to 114) must be observed shall be deemed the reporting period for cumulative accounting of working hours.

The duration of a reporting period shall be established by the employer and shall not exceed one calendar year. A reporting period may be defined as calendar periods (months, quarters) or as other periods.

Cumulative accounting of working hours shall be applied by the employer with the consent of a trade union.

Article 127. Division of the workday into parts

For jobs in which due to the particular nature of the work, and also in production work of varying intensity during a workday (shift), the workday may be divided into separate parts with work breaks lasting no less than two hours including breaks for rest and meals. In such circumstances, the overall duration of working hours shall not exceed the established duration for daily work.
(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

The time of work breaks during the workday shall not be included in working hours.

The employer shall take the decision to divide the workday into parts with the consent of a trade union.

Article 128. Flexible schedule of working hours

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

A flexible schedule of working hours is a way of organizing working hours such that, for particular employees or collectives of a structural subdivision of an organisation, self-regulation within specific limits of the beginning and end of the workday and of its total duration may be permitted. This requires working for the full cumulative number of working hours established by law for the reporting period (workday, week, month and others).

A flexible schedule of working hours is established by the employer upon individual or collective request according to the procedure established by local regulations, provided that it takes into account the interests of production, does not complicate the organisation of work, and does not upset the normal activity and rhythm of production.

Employees who are assigned to a flexible schedule of working hours shall be informed of the date of assignment to that schedule and acquainted with the conditions and specifics of work under that schedule in accordance with the procedure specified by local regulations.

A flexible schedule of working hours shall not be established for shift work.

Article 129. Component elements and variations of a flexible schedule of working hours

Flexible working hours include:

1) variable (flexible) time, which is a period at the beginning and end of the workday (shift) during which the employees have the right to begin and end work at their discretion;

2) fixed time, which is a period of compulsory presence at work for all those under a flexible schedule of working hours in a given division of an enterprise. Its duration is the principal part of the workday;

3) breaks for meals and rest which usually separate fixed time into two approximately parts. Their actual duration excluded from working hours;

4) duration of an reporting period which defines a calendar period (month, week, etc.) during which each employee must have worked for the duration of working hours established by the employer in accordance with legislation.

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

The duration of fixed time and of each part of flexible time shall be determined by the employer with due regard for the opinion of employees.

The maximum duration of flexible time during a workday shall not exceed 10 hours, and for a reporting period the total number of working hours must be equal to the standard hours for that period.

The fourth and fifth paragraphs of Article 129 have been deleted – Law of the Republic of Belarus dated 18 July 2019 N 219-Z.

Article 130. Circumstances for transfer to the usual work schedule

The employer has the right to transfer an employee (employees) from a flexible schedule of working hours to the general work schedule:

1) in the event of exigencies of production, for a period of up to one month;

2) in the event of infractions of the adopted schedule and in addition to the applicable disciplinary penalties, for a period of up to three months,, and for a repeat infraction, for a period of at least two years;

3) in the event that employees of a structural subdivision commit a systematic infraction of the regulations that govern work under a flexible schedule of working hours, a duly authorized agent of the employer must transfer the given structural subdivision to the general work schedule.

Article 131. Deleted

(Article 131 has been deleted – Law of the Republic of Belarus dated 18 July 2019 N 219-Z).

Article 132. Use of working hours

Employees shall arrive at work promptly and adhere fully to the duration of working hours established by legislation for carrying out their duties, and the employer shall provide the conditions for full and productive use of working hours.

During working hours it shall be prohibited to distract employees from their immediate job and to relieve them of work to fulfil public obligations and conduct activities not connected with production activity, unless stipulated otherwise by legislation, a collective contract or agreement.

Article 133. Obligation of the employer to organize accounting of working hours

The employer shall organize accounting for employee's appearance at work and departure from it.

Prior to the beginning of work, each employee must report their arrival according to the procedure established by the employer and likewise report their departure.

ConsultantPlus: comment.

The journal for reporting working hours is to be retained for 3 years after tax authorities have conducted an audit of compliance with tax legislation. If an audit by tax authorities of compliance with tax legislation has not taken place, the journal for accounting working hours is to be retained for 10 years. (Decree of the Ministry of Justice of the Republic of Belarus dated 24 May 2012 N 140)

Reporting of appearance at work and departure from it shall be maintained with timesheets, annual time cards, and other documents which indicated the surname and initials of the employee, the calendar days in the reporting period, the amount of time worked, including overtime, work during state holidays and celebratory days (first paragraph of Article 147) and weekend days, and other necessary information. The forms of documents for accounting appearance at work and departure from it and also the procedures for making entries shall be determined by the employer.

(third paragraph of Article 133 as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

The actual working hours which consist of worked and unworked hours included in working hours in accordance with legislation are subject to reporting.

Worked time shall include overtime, piecework based on units of time, business trips and part-time jobs separately.

Unworked time shall be divided into paid and unpaid time, and also loss of working hours through fault of an employee, as well as without their being at fault.

Actual working hours shall be considered as of the moment of an employee's appearance at the workplace according to the regulations of internal work procedures, the work (shift) schedule or a particular order of the employer until the moment of actual release from work on that workday (shift).

Time spent in basic operations and in preparatory and concluding operations (receiving work instructions, materials and tools, familiarization with equipment, documentation, preparation and tidying of the workplace, delivery of finished products and more), and in interruptions required by technologies, by organizing work, by technical and security regulations, and, in the absence of these, required by the employer with consent of a trade union shall be recorded as time actually worked.

Actual time does not include, and shall not record, time in transit from a place of residence to the location of a permanent job (collection point) and return, nor time required to go from the entrance to a workplace, nor to change clothing, nor after the end of work to record departure.

Downtime within shifts shall be taken into account beginning at five minutes.

Time used by employees during downtime for other jobs shall not be included on the sheet recording downtime and shall be recorded by issuing one-off work orders.

CHAPTER 11

WORK BREAKS DURING THE WORKDAY. STATE HOLIDAYS, CELEBRATORY AND WEEKEND DAYS

Article 134. Work break for rest and meals

During the workday employees shall be provided with work breaks for rest and meals with a duration of at least 20 minutes and no more than two hours, which shall be used by employees as they see fit and shall not be including in working hours.

ConsultantPlus: comment.

Methodological recommendations concerning setting standards for leaves from work and for personal necessity of employees in economic sectors have been specified by Decree of the Ministry of Labour and Social Protection of the Republic of Belarus dated 30 September 2005 N 125.

ConsultantPlus: comment.

For automotive transport drivers, a work break for rest and meals is to be provided, as a rule, no later than 4 hours after the beginning of work. (third paragraph of point 21 of the Provisions on Working Hours and Time Off for Drivers of Automotive Transport approved by Decree of the Ministry of Transport and Communication of the Republic of Belarus dated 25 November 2010 N 82)

The time provided for a work break and its actual duration shall be established by regulations for internal work procedures or by a work (shift) schedule or by agreement between employees and the employer.

The time which is required for meals in jobs with conditions of production which make work breaks impossible and which are provided to employees during the workday shall be included in working

hours. The list of such jobs and the procedure and location for consuming meals shall be established by the employer in accordance with a collective contract or agreement or with the regulations for internal work procedures.

Article 135. Additional special work breaks

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z and 18 July 2019 N 219-Z)

ConsultantPlus: comment.

For the employees indicated, the employer is required to arrange a work schedule that prevents harm to their life and health from extreme heat and extreme cold. (second paragraph of Article 29 of Law of the Republic of Belarus dated 23 June 2008 N 356-Z)

Employees who perform work outdoors or in unheated enclosed areas during the cold season of the year, and also certain types of work, shall be provided, in addition to a break for rest and meals, with additional special work breaks during the workday which are included in working hours (breaks for breastfeeding children, work breaks for warming, work breaks for rest from loading and unloading and other work). The types of work and the duration and procedures of such breaks shall be determined by the regulations for internal work procedures and (or) a collective contract.

Article 136. Weekends

All employees shall be provided with weekend days (weekly uninterrupted time off).

For a five-day work week, two weekend days shall be provided every week.
(second paragraph of Article 136 as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

For a six-day work week, one weekend day shall be provided.

The common weekend day is Sunday, except in the circumstances specified by Articles 140 and 141 of this Code. In exceptional circumstances, Sunday may be declared a workday by the President of the Republic of Belarus.
(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

The second weekend day of a five-day week shall be established by the regulations for internal work procedures or the work (shift) schedule, unless determined otherwise by agreement between the parties.

Both weekend days shall, as a rule, be provided consecutively. For the purpose of efficient use of working hours, weekend days, state holidays and celebratory days (first paragraph of Article 147), the Government of the Republic of Belarus may, with the approval of the President of the Republic of Belarus, designate certain particular workdays as falling on Saturday weekend days and workdays.
(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

Reassignment of a weekend day by the employer, as stipulated by the regulations of internal work procedures or work (shift) schedule, to a different calendar day shall be deemed a change of them and shall be permissible through the procedures established by Articles 142 and 143 of this Code.

Weekend days shall be provided no less frequently than after six consecutive workdays.

Article 137. The right to weekend days

ConsultantPlus: comment.

Workers have the right to time off. For employed workers, this right is exercised by establishment of a work week not to exceed 40 hours, reduction in the duration of night work, provision of annual paid leave, and weekly days off. (Article 43 of the Constitution of the Republic of Belarus)

All employees have the right to weekend days.

Employees may use weekend days as they see fit.

Employees on a business trip shall use weekend days in the manner prescribed by regulations for internal work procedures or work (shift) schedule established by the employer to which they have been assigned. In the event that an employee has been dispatched on a business trip especially to perform work on one of their weekend days, then compensation for work on that day shall be applied in accordance with Article 69 of this Code. In the event that an employee has been instructed by the employer to embark on a business trip or return from one on one of their weekend days, the employer shall, if the employee so desires, provide them with a different unpaid day off no later than one month following the month of the business trip.

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z and 18 July 2019 N 219-Z)

Article 138. Duration of weekly uninterrupted time off

The duration of weekly uninterrupted time off shall be no less than 42 hours.

The duration of weekly uninterrupted time off shall be calculated in accordance with the regulations for internal work procedures or work (shift) schedule from the moment of the end of the workday (shift) on the day before a weekend day (weekend days) until the moment work begins on the first workday following the weekend day (weekend days).

ConsultantPlus: comment.

For automotive transport drivers, the duration of uninterrupted time off must be at least 42 hours on average during a reporting period. (point 25 of the Provisions on Working Hours and Time Off for Drivers of Automotive Transport approved by Decree of the Ministry of Transport and Communication of the Republic of Belarus dated 25 November 2010 N 82)

For shift work, and also for cumulative accounting of working hours, the minimum duration of weekly time off may be calculated as an average for the reporting period.

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

Article 139. Consequences of coincidence of a weekend day with a state holiday or celebratory day

In the event that a weekend day in the manner prescribed by the regulations for internal procedures or work (shift) schedule coincides with a state holiday or celebratory day (first paragraph of Article 147), then the weekend day shall not be reassigned to a different day and no other day off shall be provided.

Article 140. Weekend days in organisations which operate continuously

In organisations which operate on a continuous production cycle (metallurgy, chemical production, agriculture and others), and also those which provide permanent and continuous services for the public and to organisations (electrical power, telegraph, postal service, first medical response, transport, services for principal production and others), weekend days shall be provided on various calendar days alternately for each group of employees in accordance with the work (shift) schedule.

Article 141. Weekend days in organisations which continuously serve the public on Saturday and Sunday

In organisations which continuously serve the public on Saturday and Sunday (retail sales, maintenance services, theatres, cinema theatres, museums and others), a weekend day (weekend days) shall be provided on a different day of the week according to the procedures stipulated by Articles 136 to 139 of this Code and with due regard for the recommendations of local executive and administrative bodies.

Article 142. Work on weekend days with the consent of or on the initiative of an employee

Work on weekend days at the suggestion of the employer shall be permitted only with consent in writing from the employee or on the initiative of the employee with the consent of the employer, except in the circumstances specified in Article 143 of this Code.

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

In the event that several employees are recruited to work on a weekend day, the employer shall obtain consent in writing from each of them.

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

The employer shall determine the need for performing work on a weekend day with the consent of or on the initiative of the employee.

Article 143. Exceptional circumstances for engaging employees to work on a weekend day without their consent

The employer shall have the right to recruit employees to work on a weekend day which has been established by the regulations for internal work procedure or the work (shift) schedule without the consent of those employees in the following exceptional circumstance in order to:

1) avert a catastrophe or industrial accident, or to perform work necessary to immediately mitigate their consequences or the consequences of natural disasters;

2) avert accidents;

3) eliminate accidental or unanticipated circumstances which may disrupt or interfere with their proper functioning with normal functioning of provision of providing water, gas, heating, lighting, plumbing, transport or communication services;

4) provide medical personnel for emergency medical care.

Article 144. Limit on the number of weekend days for which an employee may be recruited to work

No more than 12 weekend days per year for each employee shall be used for work.

The limit on the number of weekend days shall not include those on which an employee has been recruited to work in accordance with Article 143 of this Code.

Article 145. Documenting recruitment to work on a weekend day

Recruitment to work on a weekend day shall be documented by an order (instruction) of the employer in compliance with the guarantees stipulated by Article 263, 276 and 287 of this Code.

Article 146. Deleted

(Article 146 has been deleted – Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Article 147. State holidays and celebratory days

Work shall not be performed on state holidays and celebratory days which have been established and proclaimed by the President of the Republic of Belarus.

On state holidays and celebratory days (first paragraph of this Article) work shall be permissible whose cessation is impossible due to production conditions (organisations in continuous operation), work required by the necessity for permanent and continuous services to the public and to organisations, and also for emergency repairs and loading and unloading.

Work whose cessation is impossible due to production conditions and work required by the necessity for permanent and continuous services to the public and to organisations shall be planned in advance in the work (shift) with due regard for the monthly standard for working hours.

Emergency work and loading and unloading may be performed on state holidays and celebratory days (first paragraph of this Article) in accordance with an approved schedule or upon instruction by an employer provided that it was not possible to foresee such contingencies.

Article 148. Deleted

(Article 148 has been deleted – Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

**CHAPTER 12
LABOUR AND SOCIAL LEAVE**

Article 149. The right to labour and social leave

Employees shall have the right to annual and social leave provided that the grounds stipulated by this Code are present.

Article 150. The concept of leave. Types of leave

Exemption from work in accordance with an employment contract for a specified period for rest or for other social purposes with retention of the previous job and average wages in the circumstances stipulated by this Code shall be deemed leave.

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Employees shall be provided with the following types of leave:

- 1) annual leave:

basic leave;
(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)
paragraph deleted – Law of the Republic of Belarus dated 20 July 2007 N 272-Z;

additional leave;

2) social leave:

for pregnancy and maternity;

for pursuing education;
(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z and 8 January 2014 N 131-Z)

in connection with the catastrophe at the Chernobyl nuclear energy plant;
paragraph deleted – Law of the Republic of Belarus dated 20 July 2007 N 272-Z;

for reasonable causes of a personal and family nature.

Article 151. Calculation of the duration of leaves

The duration of leaves shall be calculated in calendar days.
(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)
State holidays and celebratory days (first paragraph of Article 147) which occur during a period of annual leave shall not be included in the number of calendar days of leave and shall not be paid.
(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

Article 152. Documenting leaves

Leave shall be documented by an order (instruction) or notification of leave which shall be signed on behalf of the employer by a duly authorized agent of the employer.

A sample form for a notification of leave shall be established by the Government of the Republic of Belarus or by a body duly authorized by it.

Article 153. The purpose of and general conditions for provision of annual leave

Annual leave is intended to provide rest and restoration of the capacity to work and to augment the health and other personal needs of the employee.

ConsultantPlus: comment.

In accordance with point 145 of Decree of the President of the Republic of Belarus dated 25 April 2005 N 186, military servicepersons serving in the military under contract and included in the plan for discharge of military servicepersons and who have reached the age limit for military service, will in the year of their discharge be provided with an accounting which will indicate that basic leave was used in full by the end of their term of service in the military.

Annual leave shall be provided for work during the working year (annually) with retention of the previous job and average wages.
(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

The job performed prior to leave for the same employer in the same employment capacity (occupation) and with the same qualifications and in the same workplace shall be deemed the previous job.

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Article 154. The right to basic leave

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Employees, irrespective of who employs them, of the type of employment contract they have concluded, the form of organisation and remuneration shall have the right to basic leave, provided that legislative acts do not stipulate otherwise.

Article 155. Duration of basic leave

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

ConsultantPlus: comment.

Person liable to employment by judicial imposition of employment have the right to basic leave with duration of seven calendar days. (eighth paragraph of point 14 of Decree of the President of the Republic of Belarus dated 24 November 2006 N 18)

The duration of basic leave shall not be less than 24 calendar days.

ConsultantPlus: comment.

Civil servants are provided with an annual basic leave with duration of 28 calendar days. (point 1 of Article 50 of Law of the Republic of Belarus dated 14 June 2003 N 204-Z)

ConsultantPlus: comment.

The duration of basic leave for civil servants, employees of the Investigative Committee, and military servicepersons serving under contract has been established in accordance with Law of the Republic of Belarus dated 14 June 2003 N 204-Z, Decree of the President of the Republic of Belarus dated 10 November 2011 N 518 and Decree of the President of the Republic of Belarus dated 25 April 2005 N 186.

The list of organisations and employment capacities, and also categories of employees with duration of basic leave of more than 24 calendar days, and the conditions for provision of it and the actual duration of such leave shall be established by the Government of the Republic of Belarus with the approval of the President of the Republic of Belarus.

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

The duration of basic leave shall be obligatory for all employers.

Article 156. Deleted

(Article 156 has been deleted – Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

Article 157. Additional leave for work with harmful and (or) hazardous work conditions and for work of a particular nature

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

Employees engaged in jobs with harmful and (or) hazardous work conditions based on the certification of work conditions at workplaces shall be provided with additional leave for jobs with harmful and (or) hazardous work conditions.

Employees whose work involves special considerations in performance shall be provided with additional leave for work of a particular nature.

ConsultantPlus: comment.

Concerning additional leave for work with harmful and (or) hazardous work conditions, see the clarification from the Ministry of Labour and Social Protection of the Republic of Belarus dated 12 March 2018.

The procedures and conditions for providing such additional leave and their durations, and also the procedures for certification of work conditions at workplaces shall be established by the Government of the Republic of Belarus with the approval of the President of the Republic of Belarus.

Article 158. Additional leave for an irregular workday

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

ConsultantPlus: comment.

Concerning additional leaves, see the communication from the Ministry of Finance of the Republic of Belarus dated 28 February 2019 N 15-1-13/105.

The employer shall provide additional leave for employees who have an irregular workday for a period of up to 7 calendar days.

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

The procedures and conditions for providing such additional leave and its duration shall be determined by a collective contract or an employment contract; and for employees of state-funded organisations and of other organisations which are subsidized and for employees whose remuneration has been set equal to that for employees of state-funded organisations, they shall be determined by the Government of the Republic of Belarus.

(second paragraph of Article 158 as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Article 159. Additional leave for seniority

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

ConsultantPlus: comment.

Civil servants with five years of seniority in state service are to have two calendar days of additional annual leave, and after ten years of seniority are to have four calendar days. (point 2 of Article 50 of Law of the Republic of Belarus dated 14 June 2003 N 204-Z)

The employer may provide additional leave for seniority for a period of up to 3 calendar days to employees with lengthy seniority in one organisation or sector.

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

The procedures and conditions for providing such leave and its duration shall be determined by a collective contract or employment contract or by the employer.

ConsultantPlus: comment.

A contract concluded with an employee should specify such additional incentives to work as additional

paid incentive leave for five calendar days. (sub-point 2.5 of point 2 of Decree of the President of the Republic of Belarus dated 26 July 1999 N 29)

Article 160. Additional incentive leave

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z and 18 July 2019 N 219-Z)

Additional incentive leave may be established by a collective contract, agreement or by the employer for all employees, to particular categories (types of production, job or structural subdivision) or to individuals by an employment contract.

Article 161. Substitution of monetary compensation for leave

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

Monetary compensation may be substituted for a portion of annual leave (basic and additional) which exceeds 21 calendar days by agreement between an employee and an employer.

In the event that annual leave is separated into parts by agreement between the parties, monetary compensation may be substituted for one portion or for a given number of days in that portion, provided that the employee uses annual leave with a total duration of at least 21 calendar days in the current year.

(second paragraph of Article 161 was inserted by Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Substitution of monetary compensation for leaves shall not be permissible for advances provided, leaves for pregnant women, for employees designated persons with disabilities, for employees under eighteen years of age, for employees working in areas with radioactive contamination, and also substitution for additional leave for work in harmful and (or) hazardous work conditions and for jobs of a particular nature.

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Article 162. Cumulative annual leave

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Additional leave shall be combined with basic leave with duration of 24 calendar days, unless stipulated otherwise by legislation. In the event that an employee is entitled to several additional leaves, their durations shall be totalled.

Additional incentive leave provided in accordance with point 3 of the third paragraph of Article 261-2 of this Code shall be combined with the basic leave to which an employee is entitled (first and second paragraph of Article 155).

In the event that an employee is entitled to more than 24 days of basic leave or is entitled to several additional leaves and that totalling them in accordance with the procedure stipulated by the first and second paragraphs of this Article results in annual leaves of various durations, the employee shall be entitled to the annual leave with the longest duration.

Article 163. The work year

The work year for which annual leave is provided is an interval of time equal to one calendar, but calculated for each employee from the day of their hiring.

Article 164. Periods included in the work year

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

The work year for which annual leave is provided, except in the circumstances specified in the second paragraph of this Article, shall include:

1) actual time worked;

2) time during which the employee did not work but during which, in accordance with legislation or a collective contract the employee retains the previous job and previous wages (average wages) or received state social insurance benefits, except for maternity leave to care for a child less than three years of age, and also weekend days, state holidays and celebratory days designated and proclaimed as days off and other days off provided to the employee;

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

3) time stipulated by legislation or by a collective contract for leaves without retention of wages, provided that such leaves do not exceed 14 calendar days in a work year;

4) time of paid involuntary absenteeism;

4-1) time of an employee's suspension from work in the circumstances specified in the ninth paragraph of Article 49 of this Code, and also an employee's suspension from work for subsequent reinstatement to their previous job;

(point 4-1 of the first paragraph of Article 164 has been inserted by the Law of the Republic of Belarus dated 18 July 2019 N 291-3)

5) other periods which do not meet the conditions specified in points 1 through 4-1 of this Article but which, in accordance with legislation or a collective contract or agreement, shall be included in the work year.

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-3)

Periods included in the work year for which additional leave shall be provided for working in harmful and (or) hazardous conditions and for work of a particular nature (Article 157) shall be determined by the Government of the Republic of Belarus.

Article 165. Conditions under which the work year is shifted

(heading amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

In the event that the total of the periods included in the work year in accordance with Article 164 of this Code are less than 12 full calendar months, then the work year for the employee is shifted by the insufficient time.

Article 166. Conditions for providing annual leave for the first work year

Annual leaves (basic and additional) for the first work year shall be provided no sooner than after six months with an employer, except in the circumstances specified in this Article.

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

Prior to six months of work, the employer shall provide annual leaves upon the request of employees who are:

1) women before or after pregnancy and maternity leave;

2) under eighteen years of age;

3) employees recruited for work through the procedure for transfers;

4) deleted;

(point 4 has been deleted – the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

5) part-time employees, provided that annual leave at their principal workplace becomes available in a period of up to six months of part-time work;

6) deleted;

(point 6 has been deleted – the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

7) veterans of World War II;

8) mothers (adoptive mothers), fathers (adoptive fathers) caring for two or more children under fourteen years of age (or a child under eighteen years of age with disabilities);

(point 8 of Article 166 has been inserted by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

9) employees pursuing general secondary education, and vocational and technical training, general special, higher or post-graduate education, special education at a secondary level in evening classes or by distance learning;

(point 9 of the second paragraph of Article 166 as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

10) in other circumstances specified by a collective contract, agreement or employment contract.

The third paragraph of Article 166 has been deleted – Law of the Republic of Belarus dated 20 July 2007 N 272-Z.

Annual leave for wives (husbands) employed in military service may, upon their request, be provided at the same time as that for their husband (wife).

It shall also be permissible, except in the circumstances set forth in points 1 to 9 of the second and in the third paragraph of this Article, to provide leave in proportion to the fraction of the year worked, but not less than 14 calendar days.

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

Article 167. Conditions of providing annual leave for the second and subsequent work years

Annual leave (basic and additional) for the second and subsequent work years shall be provided at any time during the work year in accordance with the arrangement for providing labour leaves, unless stipulated otherwise by this Code.

Article 168. Precedence in the provision of annual leaves

Precedence in the provision annual leaves shall be established for a collective of employees by a schedule of annual leaves approved by the employer and also with the agreement of a trade union, provided that such agreement is stipulated by a collective contract. In composing the schedule of annual leaves, the employer is to take into account the opinion of employees concerning the time of their release from work, provided that this does not hinder the normal activities of the organisation and the exercise of the right to leave of other employees; and the employer is also to plan the precedence in the provision of annual leaves in accordance with the fourth paragraph of this Article.
(first paragraph of Article 168 as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

ConsultantPlus: comment.

The period for retaining the schedule of annual leaves is 1 year. (Decree of the Ministry of Justice of the Republic of Belarus dated 24 May 2012 N 141)

The schedule of annual leaves shall be composed for the calendar year no later than 5 January or another period established by a collective contract, agreement or agreement of the employer with a trade union and shall be communicated to all employees.

ConsultantPlus: comment.

The procedure for providing annual leaves to certain officials has been established by Decree of the Council of Ministers of the Republic of Belarus dated 4 December 2015 N 1010.

The date of the beginning of annual leave shall be determined by agreement between the employee and the employer.

In composing the schedule of annual leaves, the employer shall plan a leave according to the preference of the employee:

in summer or at some other convenient time:

1) for persons under eighteen years of age;

2) for veterans of World War II and veterans of combat within the territories of other states;

3) mothers (adoptive mothers), fathers (adoptive fathers) caring for two or more children under fourteen years of age, and also mothers (adoptive mothers), fathers (adoptive fathers) caring for child under eighteen years of age with disabilities;

(point 3 of the fourth paragraph of Article 168 as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

4) employees who are ill and have been referred for treatment as a result of the catastrophe at the Chernobyl nuclear energy plant and of other radioactive emergencies;

(as amended by the Law of the Republic of Belarus dated 12 May 2009 N 19-Z)

5) employees with disabilities for which a causal connection has been established between the injuries or illness that resulted in those disabilities and the catastrophe at the Chernobyl nuclear energy plant;

(point 5 of the fourth paragraph of Article 168 as amended by the Law of the Republic of Belarus dated 12 May 2009 N 19-Z)

6) participants in mitigating the consequences of the catastrophe at the Chernobyl nuclear energy plant;
(point 6 of the fourth paragraph of Article 168 as amended by the Law of the Republic of Belarus dated 12 May 2009 N 19-Z)

7) employees who are evacuees from, have been resettled from, or have of their own volition departed from the area of radioactive contamination, from the evacuation (exclusion) zone, the priority resettlement zone and the subsequent resettlement zone, except for those who resided in those zones after 1 January 1990;
(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

8) donors of blood and its components who have been awarded the Honoured Donor of the Republic of Belarus medal by the Ministry of Health, the Honoured Donor medal of the Republic of Belarus, the Honoured Donor medal of the USSR, or the Honoured Donor medal of the Red Cross Society of the BSSR;
(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z, 8 January 2015 N 238-Z and 18 July 2019 N 219-Z)

9) Heroes of Belarus, Heroes of the Soviet Union, Heroes of Socialist Labour, or full Cavaliers of the Order of the Homeland, Glory, or Labour Glory;
(point 9 of the fourth paragraph of Article 168 as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

10) other employees in accordance with legislative acts, a collective contract or employment contract;
(point 10 of the fourth paragraph of Article 168 as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

in a specific period:

1) employees pursuing general secondary education, and vocational and technical training, general special, higher or post-graduate education, special education at a secondary level in evening classes or by distance learning, taking leave before or during the period of interim and final certification, and also during holidays from educational institutions and organisations conducting post-graduate educational programmes;
(point 1 of the fourth paragraph of Article 168 as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

2) employees whose wives are on leave for pregnancy and maternity, taking leave during that leave;

3) employees who have concurrent jobs, taking leave simultaneously with annual leave from their principal job;

4) teachers (instructors) at institutions of general secondary education, and vocational and technical training, general special, and special education, and special care institutions providing instruction and care or rehabilitation and care, taking leave during the summer;

5) women prior to or after leave for pregnancy and maternity;

6) working wives (husbands) of military servicepersons, taking leave at the same time as their husbands (wives).
(fourth paragraph of Article 168 as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

Article 169. Obligation of the employer to inform the employee of the beginning of annual leave
(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

The employer shall inform the employee of the beginning of annual leave no later than 15 calendar days in advance, except for circumstances in which annual leave is provided on an individual basis by prior agreement between the employee and the employer.

Article 170. Annual provision of annual leave. Exceptional circumstance for shifting annual leave to the following year

The employer shall provide the employee with annual leave, as a rule, during each work year (annually).

In exceptional circumstances when providing full annual leave to an employee in the current year would adversely affect the normal activities of an organisation, a lawyer acting as an individual to provide legal counsel, a notary conducting professional activities in a notarial office, an individual person conducting activities in the field of agro-ecotourism, or an individual entrepreneur, shifting a portion of an employee's annual leave to the following year shall be permissible.
(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

The remaining portion of annual leave shall be no less than fourteen calendar days and shall be provided before the end of the current year.
(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

The shifted portion of annual leave may be combined with leave for the following year or used separately according to the employee's preference.

Failure to provide annual leave to employees under eighteen years of age and to employees who are entitled to additional leave for work in harmful and (or) hazardous work conditions and with jobs of a particular nature shall be prohibited.
(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z and 8 January 2014 N 131-Z)

Article 171. Right of an employee to shift or prolong annual leave during the current work year

Annual leave may be shifted or prolonged:

- 1) during an employee's temporary incapacity to work due to pregnancy;
- 2) at the inception of leave for pregnancy and maternity;
- 3) in the event that an employee has been recruited to fulfil state obligations with entitlement to exemption from work;

4) in the event that annual leave coincides with leave for pursuing education (provided that the employee has arranged such leave prior to annual leave or during it after acceptance by an educational institution);
(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z and 8 January 2014 N 131-Z)

5) in the event that the employee has not received wages for leave within the established time limit;

6) upon agreement between the parties, and also in other circumstances specified by legislation or a collective contract.

In the event that the grounds listed in the first paragraph of this Article arise during annual leave, it shall be prolonged by the corresponding number of days of annual leave or, in accordance with the preference of the employee, the unused portion of leave shall be shifted to another period in the current year as agreed upon with the employer.

In the event that the grounds listed in the first paragraph of this Article arise prior to the beginning of annual leave, the leave shall be shifted, in accordance with the preference of the employee, to another period in the current year as agreed between the employee and the employer.

The employee shall inform the employer of grounds that prevent use of annual leave within the period planned and of the time for prolonged leave.

The fifth paragraph of Article 171 has been deleted – Law of the Republic of Belarus dated 20 July 2007 N 272-Z.

Article 172. Right of the employer to early provision of annual leave to employees

The employer shall have the right to provide early annual leave to all or to particular categories of employees in the event of an unanticipated cessation of work due to emergencies, natural disasters, lack of electricity, raw materials and due to other exceptional and unforeseeable circumstances.

Article 173. Consequences of refusal by an employee to use annual leave without legal grounds and consent of the employer

In the event that annual leave is provided by the established procedure but the employee refuses to use it within the period assigned to it and without legal grounds, then the employer shall have the right to refuse to shift the employee's leave and not to pay monetary compensation for unused leave, except in the circumstances specified by the first paragraph of Article 179 of this Code.

Article 174. Separation of annual leave into parts. Recall from leave

ConsultantPlus: comment.

In accordance with point 142 of Decree of the President of the Republic of Belarus dated 25 April 2005 N 186, duration of one portion of basic leave for military servicepersons may not be less than 15 days.

Upon agreement between the employee and the employer, annual leave may be separated into two portions, unless stipulated otherwise by a collective contract or agreement. In that event one portion shall not be less than 14 calendar days.

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

ConsultantPlus: comment.

A sample form for stating agreement to revision of leave has been approved by the communication of the Department of Archives and Records Management of the Ministry of Justice of the Republic of Belarus dated 14 May 2007 N 25.

ConsultantPlus: comment.

In accordance with point 8 of the Instruction on the Procedure for Calculating Average Wage approved by the Ministry of Labour of the Republic of Belarus dated 10 April 2000 N 47, in the event that an employee is summoned from annual leave and that the unused portion of it is shifted to another period, the amount of average wage applicable to the unused days of annual leave shall be counted as part of the accrued wages for work performed or hours worked.

Annual leave may be interrupted on the initiative of the employer and with consent of the employee (recall from leave).

By agreement between the employee and the employer, the resulting unused portion of leave shall be provided during the work year or, if the employee prefers, shall be appended to leave in the following year or compensated in a monetary form. In that case, monetary compensation for the portion of leave unused due to a recall from leave shall be permissible, provided that that the employee uses no less than 14 calendar days of annual leave in the current year.

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z and 18 July 2019 N 219-Z)

The circumstances in which a recall from leave is permissible may be specified by a collective contract.

Recall from leave of employees under eighteen years of age or of those entitled to additional leave for work in harmful and (or) hazardous work conditions and for work of a particular nature shall not be permissible.

(fourth paragraph of Article 174 as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Article 175. Retention of average wages for a period of annual leave

The employee shall retain average wages calculated by the procedures established by the Government of the Republic of Belarus or by a body it has duly authorized during the entire period of annual leave.

Article 176. Time limit for payment of average wages for a period of annual leave

ConsultantPlus: comment.

Average wages for a period of annual leave is to be paid no later than on day before the beginning of annual leave. (point 4 of Decree of the President of the Republic of Belarus dated 26 July 1999 N 29)

The employer shall pay the average wages for a period of annual leave no later than two days before the beginning of leave.

Article 177. Procedure for calculating the duration of annual leave in proportion to time worked

ConsultantPlus: comment.

The procedure for calculating the duration of leave when the amount of leave changes during the year has been set by sub-point 2.2 of point 2 of the Provisions of the Council of Ministers dated 24 January 2008 N 100.

The duration of annual leave in proportion to time worked shall be calculated by multiplying the amount of leave applied for one month by the number of months worked during the work year.

A total duration of leave days in proportion to time worked resulting in tenths equal to 0.5 or more shall be rounded up to one day, and durations with tenths less than 0.5 shall be excluded from the count.

The count of full months worked in a work year shall proceed as follows:

- 1) count the days included in the work year;
- 2) divide the resulting amount by the monthly average of calendar days in the year;
(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)
- 3) days remaining which amount to 15 or more calendar days shall be rounded up to a full month, and less than 15 calendar days shall be excluded from the count.

Article 178. Right of employees to receive basic and additional leave with dismissal to follow
(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

Upon an employee's application in writing, unused basic and additional leave may be provided to them with dismissal to follow (unless dismissal has occurred through their fault). In that event the day of dismissal shall be deemed the last day of leave.

In the event that dismissal is due to expiration of an employment contract, leave with dismissal to follow shall be offered within the term of the employment contract.

In the event that an employee dismissed at their own request is provided with leave to follow dismissal, that employee shall have the right to withdraw the notice of resignation up until the day when leave begins, unless another employee who, in accordance with legislation, may not be refused an employment contract has been recruited as a replacement.

Article 179. Monetary compensation for annual leave unused upon dismissal

Monetary compensation shall be payable in the event of dismissal, regardless of its grounds, of an employee who has not used or partially used their annual leave.

Monetary compensation for full annual leave shall be payable in the event that the employee has worked a full work year (12 months minus cumulative duration of annual leave to which the employee is entitled) prior to the day of dismissal.

In the event of dismissal of an employee who has worked a portion of the work year, monetary compensation shall be payable in proportion to the time worked.

Monetary compensation for unused annual leave upon dismissal shall be payable within the time limits established by Article 77 of this Code.

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Article 180. Deleted

(Article 180 has been deleted – the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

Article 181. Curtailment of annual leave for absenteeism without reasonable cause

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z, 8 January 2014 N 131-Z and 18 July 2019 N 219-Z)

ConsultantPlus: comment.

In accordance with sub-point 2.7 of point 2 of Decree of the President of the Republic of Belarus dated 26 July 1999 N 29 and also sub-point 10.5.2 of point 10 of the Provisions on the Procedure for Employers to Conclude Contracts with Employees as approved by Decree of the Council of Ministers of the Republic of Belarus date 25 September 1999 N 1476, a contract concluded with an employee shall stipulate reduction of the employee's annual leave in a given year by the number of absentee days or of deliberate failure to carry out work duties for more than three hours in a workday without reasonable cause. In such circumstances, annual leave must be at least twenty-four calendar days.

In the event of absenteeism without reasonable cause, the employer has the right, and, in the circumstances specified in this Code, should reduce the duration of annual leave by the number of absentee days. In such circumstances, the duration of annual leave shall not be less than that of basic leave (24 calendar days).

Article 182. Simultaneous payment for healthcare and annual leave

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

In the circumstance specified by legislation, a collective contract, agreement or employment contract, the employer shall, when providing annual leave (or when it is divided into parts, when providing the first part of leave), simultaneously pay the employee a non-recurring payment for healthcare as stipulated by legislation, a collective contract, agreement or employment contract.

Article 183. Social leaves

Social leaves shall be provided to employees for the purpose of creating conditions favourable to maternity, child care, education, meeting family and domestic needs as well as for other social purposes in accordance with this Code.

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

The right of employees to social leaves does not depend upon seniority, the location or type of work, or upon the title and legal status of an organisation.

During social leaves the previous job, and in the circumstances specified by this Code or a collective contract or agreement, the previous wages (average wages) shall be retained.

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Social leaves shall be provided in addition to annual leave.

Social leaves shall be provided during the calendar year in which the employee qualifies for them.

In the event that social leave is not used during the calendar, it shall not be shifted to the following work year and shall not be replaced by monetary compensation, including that for severance.

Article 184. Leave for pregnancy and maternity

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Leave for pregnancy and maternity with duration of 126 calendar days (in the event of complications in maternity including birth of two or more children, 140 calendar days) shall be provided to women.

ConsultantPlus: comment.

Women residing permanently (principally) in localities with radioactive contamination in a subsequent settlement zone have the right to pregnancy and maternity leave from the 27th week of pregnancy with duration of 146 calendar days (in the event of complications in maternity including birth of two or more children, 160 calendar days) regardless of the number of days actually used prior to maternity. (sub-point 1.2 of point 1 of Article 21 of Law of the Republic of Belarus dated 6 January 2009 N 9-Z)

Women residing permanently (principally) and (or) working in localities with radioactive contamination shall be provided with leave for pregnancy and maternity with duration of 146 calendar days (in the event of complications in maternity including birth of two or more children, 160 calendar days).

While on leave for pregnancy and maternity, state benefits from the state social insurance fund shall be assigned and paid in the manner prescribed by law.

Article 185. Leave to care for a child less than three years of age

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

The employer shall provide to women employees upon their request, regardless of their seniority at work, leave to care for a child less than three years of age after the end of leave for pregnancy and maternity.

Leave to care for a child less than three years of age shall be provided as the family sees fit to a working father or other relative or member of the family in the event that the mother has resumed work (providing a service) within the Republic of Belarus, has enrolled for instruction (to pursue vocational and technical training, special education, higher or post-graduate full-time education), is a full-time clinical resident, is a lawyer who offers legal counsel individually, a notary who offers notarial services in a notary's office, an individual entrepreneur, a creative worker, an individual person who engages in handicrafts or who provides services in agro-ecotourism (except in the event that these services have been suspended in the manner prescribed by legislation for non-entrepreneurial activity during the process of termination of those activities). Leave to care for a child less than three years of age shall be provided also to the persons specified in this paragraph in the event that the mother is employed in the representative office of a foreign organisation in the Republic of Belarus or in diplomatic representation or the consulate of a foreign state accredited by the Republic of Belarus. (second paragraph of Article 185 as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

In the event that custody of a child less than three years of age has been established, leave shall be provided to a working guardian.

The leave stipulated by this Article shall be implemented with notice in writing and may be used in full or in part for any duration.

Leave to care for a child less than three years of age shall be suspended in the event that the mother of the child has been provided with leave for pregnancy and maternity and shall be resumed at its conclusion in the manner stipulated by the fourth paragraph of this Article.

Leave to care for a child less than three years of age which has been provided to the persons specified in the second and third paragraphs of this Article shall terminate on the day following the day on which the grounds for providing such leave become absent.

In the event that a family includes two or more children less than three years of age, the leave stipulated in this Article shall be provided to a one person.

During the period of leave to care for a child until they attain three years of age, monthly state benefits shall be assigned and paid from the state social insurance fund in the manner prescribed by law.

In accordance with the preference of the persons specified in the first through third paragraphs of this Article, during their leave to care for a child less than three years of age they may work at a principle (in a different employment capacity [occupation]) or a different workplace on a part-time work schedule (no more than half the monthly standard for working hours).
(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Leave to care for a child less than three years of age shall be included in determining seniority, including seniority within a specialty or employment capacity (occupation) in accordance with legislation.
(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

The time on leave to care for a child less than three years of age shall not be counted toward determining seniority which gives the right to subsequent annual leave.

Article 186 has been deleted – Law of the Republic of Belarus dated 20 July 2007 N 272-Z.

Article 186. Leave for the father (adoptive father) when a child is born
(introduced by Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

For the birth of a child and its care by the family, the employer shall provide, upon request by the father (adoptive father) of the child, him with unpaid leave with duration of no more than 14 calendar days. Other durations and (or) payment during leave may be prescribed by a collective contract or the employer.

Leave for the father (adoptive father) upon birth of a child shall be provided one time upon his application in writing within six months of the child's date of birth.

Article 187. Deleted
(Article 187 has been deleted – Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

Article 188. Deleted
(Article 188 has been deleted – Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

Article 189. Short-term unpaid leave which the employer shall provide to an employee

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

Upon request of an employee, the employer shall provide unpaid leave with duration of 14 calendar days to the following categories of workers:

1) women with two or more children less than fourteen years of age or with a child with disabilities less than eighteen years of age;

1-1) Heroes of Belarus, Heroes of the Soviet Union, Heroes of Socialist Labour, or full Cavaliers of the Order of the Homeland, Glory, or Labour Glory;
(point 1-1 of the first paragraph of Article 189 as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

2) veterans of World War II and veterans of combat within the territories of other states;

3) providing care for an ill family member in accordance with a medical certification of health status;
(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

4) persons with disabilities work in industries, workshops and locations specially arranged for the employment of such persons;

5) other employees in circumstances specified by legislation, a collective contract or agreement.

In the circumstances specified by legislative acts, the employer shall provide unpaid short-term leave with a different duration to particular categories of employees.
(second paragraph of Article 189 as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Leave stipulated by this Article shall be provided during the calendar year at a time agreed upon between the parties.
(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Article 190. Short-term unpaid leave for meeting family and domestic needs, writing a dissertation or textbook and for other reasonable causes as agreed upon between the employee and the employer

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

In order to meet family and domestic needs, write a dissertation or textbook and for other reasonable causes in addition to those specified in the first paragraph of Article 189 of this Code, the employee upon application in writing may be provided during the calendar year with unpaid leave not to exceed 30 calendar days, unless stipulated otherwise by a collective contract, agreement or the employer.
(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

The employer evaluates what causes are reasonable, unless established otherwise by a collective contract or agreement.

Article 191. Unpaid leave or leave with partial retention of wages provided on the initiative of the employer

In the event of temporary cessation of work or temporary reduction in its volume, and also in the absence of another job to which an employee must be transferred in accordance with the findings of a medical advisory commission or a medical rehabilitation expert commission, the employer shall have the right, with written consent from the employee, to provide the employee(s) with unpaid leave or leave with partial retention of wages, unless stipulated otherwise by a collective contract or agreement. (as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z, 8 January 2014 N 131-Z and 18 July 2019 N 219-Z)

Duration of leave provided to an employee may not exceed a total of six calendar months during a calendar year.
(second paragraph of Article 191 as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

The amount of wages retained shall be determined by agreement between the employer and the employee, unless stipulated otherwise by a collective contract or agreement.

Article 192. Provision of a portion of annual leave in place of unpaid leave

Upon agreement between the employee and the employer, and also in the circumstances specified by a collective contract, the employer may provide a portion of annual leave, in accordance with the regulations established in the first paragraph of Article 174 of this Code, in place of unpaid leave (Article 190).

CHAPTER 13

PRODUCTION, TECHNICAL, PROCEDURAL AND LABOUR DISCIPLINE

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Article 193. The concept of production, technical, procedural and labour discipline

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

ConsultantPlus: comment.

Concerning measures to strengthen public safety and discipline, see Directive of the President of the Republic of Belarus dated 11 March 2004 N 1.

ConsultantPlus: comment.

Infractions of labour discipline are unlawful performance of an employee's work duties, culpable failure to perform them, or improper performance of them. (point 31 of the Resolution of the Plenum of the Supreme Court of the Republic of Belarus dated 29 March 2001 N 2)

Production and technical discipline is observance of established technical regulations and production (job, service) standards, the requirements of the production process, the manufacturing (job, service) technology, and also the requirements for proper use of raw and finished materials and of human resources.

Procedural and labour discipline is compliance with the established labour regulations compulsory for all employees and proper performance of their work duties and compliance with written or oral orders (instructions) of the employer which do not contravene legislation and local regulations.

Article 194. Labour regulations. Charters and disciplinary provisions

Labour regulations for employees shall be defined by:

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

1) regulations for internal labour discipline, collective contracts, agreements, provisions and instructions pertaining to occupation safety and other local regulations;
(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z, 6 July 2009 N 37-Z and 18 July 2019 N 219-Z)

2) staffing plan;

ConsultantPlus: comment.

For the chief officer of an organisation (of a structural [separate] subdivision), job descriptions are not usually established. (fifth paragraph of point 10 of Decree of the Ministry of Labour and Social Protection of the Republic of Belarus dated 2 January 2012 N 1)

3) job (work) descriptions for employees;
(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

4) work (shift) schedules;

5) schedules of time off.

Points 6 through 8 inclusive have been deleted – Law of the Republic of Belarus dated 20 July 2007 N 272-Z

Local regulations and regulations of work procedures may not be detrimental to the status of employees in comparison to this Code and other legislative acts which regulate respective social and labour relations.
(as amended by Law of the Republic of Belarus dated 20 July 2007 N 272-Z and 18 July 2019 N 219-Z)

Charters and disciplinary regulations apply to particular categories of employees.

Article 195. Internal work regulations

Internal work regulations shall be established by the employer with participation by a trade union on the basis of sample internal work regulations approved by the Government of the Republic of Belarus or by a body duly authorized by it.

Article 196. Labour incentives

The employer has the right to provide incentives for employees.

The type of labour incentives for employers shall be determined by a collective contract, agreement or internal work regulations, and also by charters and disciplinary provisions.

Employees may receive state awards as prescribed by law for special work efforts on behalf of society or the state.

CHAPTER 14 DISCIPLINARY LIABILITY OF EMPLOYEES

Article 197. Infractions of discipline

ConsultantPlus: comment.

Proof of disciplinary infraction may be memoranda, duly executed statements affirming infractions committed, and materials from inspections conducted by upper in the order of subordination and also those conducted by state agencies. (second paragraph of point 18 of the Resolution of the Plenum of the Supreme Court of the Republic of Belarus dated 28 June 2012 N 4)

Unlawful performance of work duties, culpable failure to perform them, or improper performance of them by an employee (disciplinary infractions) incur disciplinary liability (Articles 198 to 204).

Article 198. Disciplinary measures

ConsultantPlus: comment.

As of 1 January 2015 chief officers of organisations have the right to impose loss of all or part of additional incentive payments for a period of 12 months as a disciplinary penalty on employees who have infringed production, technical, procedural and labour discipline. (sub-point 3.3 of point 3 of Decree of the President of the Republic of Belarus dated 15 December 2014 N 5)

In the event of a disciplinary infraction, the employer may apply to the employee the following disciplinary measures:

- 1) a notice;
- 2) a reprimand;
- 3) loss of all or part of incentive payments for twelve months;

ConsultantPlus: comment.

Chief officers of state agencies and other organisation regardless of the form of ownership are to ensure unconditional application of disciplinary liability up to and including dismissal from work for appearing at work under the influence of alcohol, narcotics or other intoxicants, and also for consumption of alcohol, use of narcotics, psychoactive substances and their analogues, and other intoxicants while at work or in the workplace; and for infractions of the requirements for occupational safety resulting in injury or death of other employees. (sub-point 1.4 of point 1 of Directive of the President of the Republic of Belarus dated 11 March 2004 N 51)

4) dismissal (points 6 through 11 of Article 42, points 1, 1-2, 5-1 and 9 of the first paragraph of Article 47).

(first paragraph of Article 198 as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

For specific categories of employees with jobs of a particular nature, other disciplinary measures may also be specified (Article 204).

ConsultantPlus: comment.

The employer has the right to unilaterally or on the basis of a collective contract (agreement) apply additional disciplinary measures. (third paragraph of point 4 of Resolution of the Plenum of the Supreme Court of the Republic of Belarus dated 28 June 2012 N 4)

The right to choose the disciplinary measure belongs to the employer. In selecting disciplinary measures the severity of the disciplinary infraction, the circumstances in which it was committed, and the previous work performance and behaviour of the employee at work shall be taken into account.

Employees who have committed disciplinary infractions, regardless of disciplinary penalties applied to them, may be subject to: loss of bonuses, change of the period for annual leave, and other measures. The types and procedures for applying such measures shall be determined by regulations for internal work procedures, a collective contract, agreement, or other local regulations.
(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z and 18 July 2019 N 219-Z)

Article 199. Procedure for implementing disciplinary penalties

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

ConsultantPlus: comment.

Failure of the employer to require explanation in writing from the employee or failure to receive such explanation is not grounds for rescinding a disciplinary penalty, provided that the fact of the infraction of work discipline has been verified by the employer. (third paragraph of point 32 of the Resolution of the Plenum of the Supreme Court of the Republic of Belarus dated 29 March 2001 N 2)

Prior to applying a disciplinary penalty, the employer shall require an explanation in writing from the employee.

Refusal of the employee to submit the explanation in writing shall not prevent application of a disciplinary penalty and shall be registered in a statement with indication of witnesses to the refusal.

ConsultantPlus: comment.

In the event that, after a disciplinary penalty has been applied, an employee persists in culpable unlawful behaviour, the employer has the right to apply disciplinary liability again. (point 6 of Resolution of the Plenum of the Supreme Court of the Republic of Belarus dated 28 June 2012 N 4)

Only one disciplinary penalty shall be applied to each disciplinary infraction.

Disciplinary penalties shall be implemented by an order (instruction, resolution, decision, protocol).

Disciplinary penalties stipulated by point 3 of the first paragraph of Article 198 of this Code shall be implemented within the month following the month of issuance of the order (instruction, resolution, decision, protocol) pertaining to the disciplinary penalty.

The order (instruction, resolution, decision, protocol) pertaining to a disciplinary penalty with indication of reasons shall be acknowledged by the employee with a signature within five days of its issuance, not including sick leave or leave to care for an ill family member as confirmed by a certificate of incapacity to work or a certificate of temporary incapacity to work, or time while on leave or in a military or special encampment.

An employee who has not been notified of the order (instruction, resolution, decision, protocol) pertaining to a disciplinary penalty within the time limit specified by the sixth paragraph of this Article shall be deemed not subject to the disciplinary penalty. Refusal of the employee to be notified of the order (instruction, resolution, decision, protocol) pertaining to a disciplinary penalty shall be registered in a statement with indication of witnesses to the refusal.

Article 200. Time limits for applying disciplinary penalties

ConsultantPlus: comment.

Time spent by an employee while on a business trip, in a military encampment, as an absentee as well as in other circumstances of absence from work after the established one-month time limit from the day of discovery of the infraction is not excluded when applying a disciplinary penalty. (point 9 of Resolution of the Plenum of the Supreme Court of the Republic of Belarus dated 28 June 2012 N 4)

Disciplinary penalties shall be applied no later than one month from the day of discovery of a disciplinary infraction, not including sick leave or leave to care for an ill family member as confirmed by a certificate of incapacity to work or a certificate of temporary incapacity to work, or time while on leave or in a military or special encampment.

(first paragraph of Article 200 as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

The day of discovery of a disciplinary infraction shall be deemed the day when the infraction came to the notice of the employee's immediate superior.

For examination by law enforcement bodies of materials pertaining to disciplinary infractions, a disciplinary penalty shall be applied no later than one month from the day of refusal to initiate or close a criminal case.

Disciplinary penalties shall not be applied after more than six months, and in the event of an audit or inspection conducted by duly authorized state bodies shall not be applied more than two years after the disciplinary infraction was committed. These time limits shall not include time for criminal proceedings to take place.

Article 201. Bodies (management officers) authorized to apply disciplinary penalties

Disciplinary penalties shall be applied by a body (management officer) endowed with the right to recruit (by election, approval, appointment to an employment capacity, or recruitment for an occupation) and dismiss employees or by another body (management officer) on its behalf, unless stipulated otherwise by legislative acts.

(first paragraph of Article 201 as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Transfer of authority to apply disciplinary penalties shall be implemented by an order (instruction).

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Disciplinary penalties for particular categories of employees with work of a particular nature (Article 204) may be applied also by bodies (management officers) to which the organ (management officer) specified in the first paragraph of this Article is subordinate.

Employees serving in an elective employment capacity may be dismissed from work only upon a decision by the body which elected them and only on the grounds prescribed by law.

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Article 202. Procedure for appealing disciplinary penalties

Disciplinary penalties may be appealed in accordance with the procedure stipulated by this Code.

ConsultantPlus: comment.

A court does not have the right to specify what less severe penalty may be applied to an employee because the right to select disciplinary penalties is reserved for the employer. (second paragraph of point 5 of Resolution of the Plenum of the Supreme Court of the Republic of Belarus dated 28 June 2012 N 4)

The body which examines a labour dispute taking into account the degree of culpability of an employee and the proportionality of a disciplinary penalty to the severity of the disciplinary infraction, the circumstances in which it was committed, the previous work performance and behaviour of the employee at work, and their attitude toward work shall have the right to rescind the disciplinary penalty.

After a disciplinary penalty has been rescinded in accordance with the second paragraph of this Article, the employer may apply a less severe disciplinary penalty to the employee, provided that the time limits specified by the first, third and fourth paragraphs of Article 200 of this Code, which do not include the time required to examine a labour dispute by bodies designated to make such examinations, have not expired.

A superior body (management officer) which is examining labour disputes of particular categories of employees with work of a particular nature (Article 204) shall have the right to rescind, lessen or augment (within the authority stipulated for it) disciplinary penalties which have been imposed by a subordinate body (management officer) in the event that it finds that the severity of the penalty is disproportionate to the disciplinary infraction.

Augmenting a disciplinary penalty shall not be permissible in the event that the matter of imposing the disciplinary penalty is being appealed by the employee.

Article 203. Removal and termination of a disciplinary penalty

In the event that a new disciplinary penalty has not been applied to an employee within a year of the application of a disciplinary penalty, then that employee shall be deemed not subject to disciplinary penalty. In that circumstance, the disciplinary penalty shall be removed automatically without the issuance of an order (instruction, resolution, decision, protocol).
(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

The body (management officer) which has applied the penalty shall have the right on its own initiative to remove the penalty before its expiration upon the request of a direct supervisor, trade union or other designated body (representative of employees, and also upon request of the employee.

Early removal of a disciplinary penalty shall be implemented by an order (instruction, resolution, decision, protocol).
(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

ConsultantPlus: comment.

The disciplinary charter of the customs agencies of the Republic of Belarus has been approved by Decree of the President of the Republic of Belarus dated 9 March N 98.

ConsultantPlus: comment.

Disciplinary penalties for employees of the prosecutor have been established by Article 55 of the Law of the Republic of Belarus dated 8 May 2007 N 220-Z.

ConsultantPlus: comment.

Disciplinary penalties for judges of courts of general jurisdiction have been established by paragraph 9 of the Code of the Republic of Belarus Concerning the Judicial System and the Status of Judges.

Article 204. Special considerations in disciplinary liability for particular categories of employees with work of a particular nature

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Special considerations in disciplinary liability for transport employees and other categories of employees with work of a particular nature shall be established by the Government of the Republic of Belarus.

CHAPTER 15

COMBINING WORK WITH PURSUIT OF EDUCATION

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Article 205. Encouragement of employees who combine work with pursuit of education

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z and 18 July 2019 N 219-Z)

In order to attain higher qualifications (rank, class, category, etc.) for an employment capacity (occupation) or for advancement at work, the successful pursuit by employees of occupational training, higher qualification, retraining, internship, attainment of general secondary or vocational and technical training, and also their pursuit of special education at a secondary level, higher education, and academic degrees and titles shall be taken into account.

Article 206. Guarantees for employees who are pursuing general secondary education, special education at a general secondary level, vocational and technical training in evening classes or by distance learning

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

In order for employees who are pursuing secondary education, special education at a general secondary level, vocational and technical training in evening classes or by distance learning to receive education at the direction of the employer or in accordance with a collective or employment contract, reduction of the work week or of the duration of daily work with retention of no less than 50 percent of average wages shall be established, on condition of successful performance in the educational programme; and such employees shall be provided with leave for pursuing education as stipulated in Articles 208 and 211 of this Code.

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Article 207. Reduction of working hours for employees who are pursuing general secondary education, secondary education, special education at a general secondary level, vocational and technical training in evening classes or by distance learning

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

For employees who are pursuing general secondary education, special education at a general secondary level, vocational and technical training in evening classes or by distance learning, reduction during the academic year of the work week by one day or by an equivalent number of working hours (for reduction of the workday during a week) shall be established with retention of wages no less than 50 percent of the average wages at the principal workplace.

(as amended by the Law of the Republic of Belarus dated 9 November 2009 N 51-Z, 8 January 2014 N 131-Z and 18 July 2019 N 219-Z)

The employer shall have the right to provide upon request of the employees specified in the first paragraph of this Article unpaid weekly days off from work during the academic year, provided that production activity is not harmed, unless stipulated otherwise by a collective contract, agreement or employment contract.

Article 208. Education leave for employees who are pursuing general secondary education or special education at a general secondary level in evening classes or by distance learning

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Employees who are pursuing general secondary education or special education at a general secondary level in evening classes or by distance learning shall be provided with leave of no less than 20 calendar days during the period of final certification for general secondary education and no less than 9 calendar days for pursuit of general basic education with retention of average wages at the principal workplace.

(as amended by the Law of the Republic of Belarus dated 9 November 2009 N 51-Z, 8 January 2014 N 131-Z and 18 July 2019 N 219-Z)

Employees who have qualified for certification through an externship procedure for pursuit of general basic education shall be provided with leave of no less than 17 calendar days, and for those accepted for certification through an externship procedure for pursuit of general secondary education no less than 20 calendar days with retention of average wages at the principal workplace.

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z and 18 July 2019 N 219-Z)

Article 209. Deleted

(Article 209 has been deleted – Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

Article 210. Deleted

(Article 210 has been deleted – Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

Article 211. Education leave for employees who are pursuing vocational and technical training in evening classes or by distance learning

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Employees who are pursuing vocational and technical training in evening classes or by distance learning at the direction of the employer or in accordance with a collective or employment contract shall be provided with leave of the following duration with retention of average wages at the principal workplace:

1) for the period of passing tests and examinations during the academic year;

for the first and second years, up to 10 calendar days;

for the third year, up to 20 calendar days;

2) to prepare for and undergo final certification, 20 calendar days.

Employees who are pursuing vocational and technical training in evening classes or by distance learning without direction by the employer or without other grounds stipulated by a collective or employment contract may be provided with unpaid leave of the duration stipulated in the first paragraph of this Article.

Article 212. Leave to take entrance examinations at educational institutions for secondary special and higher education

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Employees who have qualified for entrance examinations at education institutions for secondary special education shall be provided with unpaid leave of not less than 7 calendar days, and for institutions of higher education, no less than 12 calendar days, not including travel time to and from the educational institution.

Article 213. Deleted

(Article 213 has been deleted – Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

Article 214. Guarantees for employees who are pursuing secondary special, higher and post-graduate education in evening classes or by distance learning

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Employees who perform successfully in educational programmes for:

secondary special and higher education in evening classes or by distance learning by direction of the employer or in accordance with contracts concluded with them in the field of education shall enjoy the guarantees stipulated by Articles 215 and 216 of this Code and other legislative acts;

secondary special, higher and post-graduate education in evening classes or by distance learning without direction by the employer or by contracts in the field of education or other grounds stipulated by collective or employment contracts shall be provided with unpaid leave of the duration specified by Article 216 of this Code.

Article 215. Reduction of working hours for employees who are pursuing secondary special and higher education in evening classes or by distance learning and who are performing successfully in the educational programme

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z and 18 July 2019 N 219-Z)

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Employees who are pursuing secondary special and higher education in evening classes or by distance learning and who are performing successfully in the educational programme shall have the right to reduction of the work week by one day or by an equivalent number of working hours (for reduction of the workday during a week) with retention of wages no less than 50 percent of the average wages at the principal workplace during the four academic months preceding the beginning of a diploma project (diploma thesis) and (or) taking state examinations.

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z and 18 July 2019 N 219-Z)

The employer shall have the right, upon request of the employee, to provide them with additional weekly unpaid days off work during those four months, unless stipulated otherwise by a collective contract, agreement or employment agreement.

Article 216. Leave for employees for successful performance in an educational programme for secondary special, higher and post-graduate education in evening classes or by distance learning

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Employees who are performing successfully in an educational programme for secondary special education in evening classes shall be provided with 18 calendar days of leave during the examination period of the academic year.

Employees who are performing successfully in an educational programme for higher education in evening classes shall be provided with 28 calendar days of leave during the examination period of the academic year.

Employees who are performing successfully in an educational programme for secondary special education by distance learning shall be provided with 30 calendar days of leave during the orientation or laboratory examination period of the academic year.

Employees who are pursuing secondary special and higher education in evening classes or by distance learning shall be provided with leave:

1) of 21 calendar days for passing state examinations;

2) of 90 calendar days during preparation for defence of a diploma project (diploma thesis), a master's dissertation.

Employees who are pursuing post-graduate education by distance learning or as candidates are successfully fulfilling an individual work plan for a post-graduate degree (adjunct, candidate) shall be provided annually with leave of 15 calendar days to pass candidate examinations.

During the leaves stipulated for pursuing secondary special and higher education in evening classes or by distance learning, the employee shall retain average wages provided that the conditions established by Article 214 of this Code are met.

Article 217. Deleted

(Article 217 has been deleted – Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

Article 218. Deleted

(Article 218 has been deleted – Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

Article 219. Leave for passing entrance examinations to an educational institution or an organization carrying out educational programmes for post-graduate education and for pursuing post-graduate education

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N131-Z)

(as amended by the Laws of the Republic of Belarus dated 20 July 2007 N 272-Z and dated 8 January 2014 N131-Z)

Employees who qualify for entrance examinations to an educational institution, who are carrying out educational programmes for post-graduate education and who are pursuing post-graduate education may be provided with unpaid leave of 12 calendar days.

Article 220. Payment for travel by employees who are pursuing secondary special and higher education by distance learning to the location of an educational institution

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

The employer may pay employees who are pursuing secondary special and higher education by distance learning to the location of educational institutions for travel to the location of an educational institution and return for installation and laboratory sessions one time during the academic year in the amount of 50 percent of fare for an appropriate means of transport in accordance with the procedure established by legislation pertaining to official business trips.

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Payment for travel to pass state examinations or prepare for and defend a diploma project (diploma work) may be provided through the procedure and in the amount stipulated by the first paragraph of this Article.

Article 220-1. Occupational training, advancing qualifications, internship and retraining of employees

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

The employer shall ensure occupational training, advancing qualifications, internship and retraining of employees in the circumstances and in accordance with the procedures stipulated by legislation, a collective contract, agreement or employment contract. In other circumstances, the need for occupational training, advancing qualifications, internship and retraining of employees shall be determined by the employer.

Occupational training, advancing qualifications, internship and retraining of employees shall be conducted in institutions for continuing adult education and in other educational institutions which in accordance with legislation have been granted the right to conduct educational activities which execute educational programmes for continuing adult education in accordance with legislation.

(second paragraph of Article 220-1 as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

The employer shall create the conditions necessary for employees who are pursuing occupational training advancing qualifications, internship and retraining to combine work with pursuing such education and shall provide the guarantees established by this Code, a collective contract, agreement or employment contract.

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

The employer shall provide the guarantees established by the Government of the Republic of Belarus or by a body duly authorized by it to an employee directed by the employer to pursue occupational training advancing qualifications, internship and retraining .

The need for occupational training or retraining of employees for their own purposes is determined by the employer.

CHAPTER 16

OCCUPATIONAL SAFETY AND HEALTH

Article 221. Occupational safety and health of employees

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Occupational safety and health of employees shall be maintained in accordance with legislation pertaining to occupational safety and health with due regard for the distinctions established by this Code.

Article 221-1. Deleted

(Article 221-1 has been deleted – Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Article 221-2. Deleted

(Article 221-2 has been deleted – Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Article 222. Deleted

(Article 222 has been deleted – Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Article 223. Guarantees to employees of the right to occupational safety and health

The state conducts state governance in matters of occupational safety and health and oversight of compliance with legislation pertaining to occupational safety and health and establishes liability for infractions of legislation pertaining to occupational safety and health.

(as amended by the Law of the Republic of Belarus dated 6 July 2009 N 37-Z, 8 January 2014 N 131-Z and 18 July 2019 N 219-Z)

In the event that an employee refuses to perform work assigned in a situation posing a direct danger to the employee's life and health and to that of those nearby; that the employee is not provided with personal protective gear which directly ensures safety at work; that the operations are suspended or prohibited by bodies authorized to maintain control (oversight) has been stopped or prohibited – until the elimination of the infractions or the creation of a new workplace, the employee shall be provided with a different job corresponding to their qualifications or, with their consent, a job with wages no less than the average wages of the previous job for a period of up to one month. As necessary, the employer shall ensure assignment of the employee to retraining or occupational training with retention of average wages for the period of pursuing training.

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

In the event that an employee's health is worsened due to work conditions, of loss of capacity to work in an occupation due to industrial accidents or occupational illness, the employer shall provide the employee, with their consent, with a job compatible with the findings of a medical advisory commission or a medical rehabilitation expert commission or arrange, at the expense of funds stipulated for compulsory insurance against industrial accidents and occupational illness, assignment of the employee to retaining or occupational training with retention of average wages for the period of pursuing training and if necessary for the period of their rehabilitation.

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z and 8 January 2014 N 131-Z)

Article 224. Compulsory insurance against industrial accidents and occupational illness

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

The employer shall provide the employee with coverage by compulsory insurance against industrial accidents and occupational illness in accordance with legislation.

ConsultantPlus: comment.

The amount of additional payment for work in harmful and (or) hazardous work conditions has been approved by the Decree of the Council of Ministers of the Republic of Belarus dated 14 June 2014 N 575.

Article 225. The right to compensation for work conditions

An employee engaged to work in harmful and (or) hazardous work conditions shall have the right to higher wages, preventive nutrition at no charge, to milk and other equivalent foods, to paid breaks from the work conditions, a reduced workday, additional leave and other compensations. The amount (quantity) and procedure for providing compensations for work conditions shall be established by the Government of the Republic of Belarus.

(as amended by the Law of the Republic of Belarus dated 6 January 2009 N 6-Z and 8 January 2014 N 131-Z)

On business trips and for work of a traveling nature, those who have the right of remedial nutrition at no charge, to milk and other equivalent foods shall be paid monetary compensation to procure them in the circumstances specified by a collective contract, agreement or employment contract.

ConsultantPlus: comment.

Employees under a civil law contract may have compensations for work conditions as part of such contracts. (third paragraph of Article 13 of the Law of the Republic of Belarus dated 23 June 2008 N 356-Z)

The employer may in addition provide employees in a collective contract, agreement of employment with other measures not stipulated by legislation to compensate for the harmful effects on workers of industrial factors and payment for damage caused to the life and health of an employee.

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Article 226. Deleted

(Article 226 has been deleted – Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Article 227. Deleted

(Article 227 has been deleted – Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Article 228. Guarantees while under medical observation

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

A worker's workplace, employment capacity (occupation) and average wages shall be retained during a period under medical observation as stipulated by legislation.

Article 229. Deleted

(Article 229 has been deleted – Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Article 230. Deleted

(Article 230 has been deleted – Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Article 231. Deleted

(Article 231 has been deleted – Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Article 232. Deleted

(Article 232 has been deleted – Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

CHAPTER 17
RESOLUTION OF INDIVIDUAL LABOUR DISPUTES

Article 233. Concept of an individual labour dispute. Bodies which examine individual labour disputes

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

An individual labour dispute is an unregulated disagreement between an employer and an employee (an individual person rejected for an employment contract, a dismissed employee) on matters of the application of labour legislation, a collective contract, agreement or other regulation, and of adherence to the terms and conditions of an employment contract.

Individual labour disputes shall be examined by:

- 1) labour dispute commissions;
- 2) courts.

Article 234. Procedure for examining individual labour disputes

The procedure for examining individual labour disputes by labour dispute commissions shall be regulated by this Code and in courts by civil procedural legislation.

ConsultantPlus: comment.

The procedure for examining individual labour disputes does not extend to claims arising from civil law relations of employees for damage from an employer who has failed to promptly execute or promptly submit to social security bodies documents for assignment of pensions. (point 3 of Resolution of the Plenum of the Supreme Court of the Republic of Belarus date 19 March 2001 N 2)

The procedure established by this Code for examining individual labour disputes shall not apply to disputes concerning the early dismissal of employees holding paid elective employment capacities in public associations.

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Individual labour disputes in which one of the parties is the chief officer of an organisation appearing in the capacity of an employee shall be examined by courts.

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Individual labour disputes of particular categories of employees shall be examined through a special procedure (Article 321)

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Article 235. Labour dispute commissions

A labour dispute commission shall be formed from an equal number of representatives of a trade union and of the employer for a term of one year.

A labour dispute commission may be created in subdivisions of an organisation with consent in writing from a trade union and the employer or in the circumstances specified in a collective contract.

The authority of the representatives of the parties shall be established by agreements issued through an established procedure.

The duties of the chairperson and secretary during each session of a labour dispute commission shall be fulfilled by representatives of the parties in alternation. Therefore, the duties of the chairperson and secretary at one and the same session shall not be fulfilled by representatives of one party.

The procedure for a labour dispute commission to conduct its business shall be established by agreement between the employer and a trade union or by a collective contract.

The employer shall extend organisational and technical support to a labour dispute commission.

236. Competency of a labour dispute commission

A labour dispute commission (if created) is the mandatory primary body for examining labour disputes, unless this Code and other legislative acts have established another procedure for examining them in exceptional circumstances.

A labour dispute commission examines disputes of employees who are members a respective trade union pertaining to application of labour legislation, collective contracts, agreements and other local regulations, including disputes pertaining to:
(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z and 18 July 2019 N 219-Z)

1) established pay levels and labour standards, and also the terms and conditions for complying with them;

2) transfer to another job and relocation;

3) wages, including in the event of failure to comply with labour standards, idling of operations and defects, combining employment capacities (occupations), overtime and night work;
(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

4) the right of an employee to receive and the amount of bonuses and rewards as stipulated in the system of wages current with the employer;

5) payment of compensations and provision of guarantees;

6) recovery of monetary amounts withheld from the wages of an employee;

7) provision of leaves;

8) issuance of special clothing, special footwear, personal protective gear and remedial nutrition;

9) application of disciplinary penalties other than dismissal.
(point 9 has been inserted by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

An employee who is not a member of a trade union may choose to appeal to a labour dispute commission or to the courts.

The competency of a labour dispute commission created in a subdivision of an organisation shall be determined by agreement in writing between the employer and a trade union or by a collective contract.

Article 237. Procedure for acceptance of applications to a labour dispute commission and the time limit for examining labour disputes

The application of an employee to a labour dispute commission is subject to mandatory registration.

The dispute shall be examined in the presence of the employee who filed the application. Examination of a dispute in the absence of the employee shall be permissible on with their consent in writing.

In the event that the employee does not appear at the session of the labour dispute commission, examination of the application shall be postponed. In the event of repeated failure by an employee to appear without reasonable cause, the labour dispute commission may choose to withdraw the application from examination, which shall not deprive the employee of the right to submit the application again.

A labour dispute commission shall have the right to summon witnesses before its sessions and to invite specialists and trade union representatives (other workers' representatives) and other public associations. Upon request of a labour dispute commission, the employer shall submit necessary accounts and documents.

Minutes of a session of a labour dispute commission shall be kept and signed by the chairperson and secretary of the commission.

A labour dispute commission shall examine a labour dispute within ten days.

Article 238. Decision of the labour dispute commission

A labour dispute commission adopts a decision upon agreement between representative of the employer and a trade union.

A decision of a labour dispute commission is binding and is not subject to approval of the employer or of a trade union.

A decision of a labour dispute commission shall indicate: the employer; the surname, given name and middle name of the employee who is appealing to the labour dispute commission; the date of appeal to the labour dispute commission and of examination of the dispute; the matter of the dispute; the surnames of the members of the labour dispute commission present at the session; and the reasoning in support of the labour dispute commission's decision.

Copies of the decision of the labour dispute commission shall be delivered to the employee and the employer within three days.

Article 239. Appealing the decision of a labour dispute commission

A decision of a labour dispute commission may be appealed by the employee or the employer, except in the circumstances specified by Article 321 of this Code, to a court within ten days of delivery to them of a copy of the decision of a labour dispute commission.
(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Article 240. Guarantees for members of a labour dispute commission

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Reduction of the base wage (base salary), salary, salary for a position and termination of an employment contract on the initiative of the employer shall not be permissible for employees who are members of a labour dispute commission during the period of exercising their authority, except in the event of liquidation of an organisation, termination of the operations of a branch office, of a representative office or of another separate subdivision situated in a different location, and in the circumstances specified by points 2 and 6 to 11 of Article of this Code and by other legislative acts.

Article 241. Examination of labour disputes in court

ConsultantPlus: comment.

Regardless of whether an employee or employer has brought a suit concerning disagreement with the decision of a labour dispute commission, the court examines that dispute in proceedings in which the plaintiff is the employee and the employer is the defendant against the employee's claims. (point 6 of Resolution of the Plenum of the Supreme Court of the Republic of Belarus dated 29 March 2001 N 2)

Labour disputes shall be examined in court upon application:

- 1) by an employee or an employer in the event that they do not agree with the decision of a labour dispute commission;
- 2) by an employee in the event that a labour dispute commission has not examined the employee's application within the time limit specified by the sixth paragraph of Article 237 of this Code, or has not arrived at a decision;
- 3) by a prosecutor in the event that the decision of a labour dispute commission contravenes the law;
- 4) by an employee concerning refusal of an employer to make a record of an accident or disagreement with its content;
(first paragraph of Article 214 as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Labour disputes shall be examined directly in court upon application by:

- 1) employees of employers in which no labour dispute commission has been created;
- 2) employees who are not members of a trade union, provided that they have not applied to a labour dispute commission;

3) employees concerning reinstatement in a job regardless of the grounds for terminating an employment contract, concerning the date and formulation of the cause for dismissal, concerning payment for periods of involuntary absence from work or for performing lower-paid jobs, except for disputes by employees for whom another procedure for examining their disputes has been stipulated;

4) employers on their recovery of financial damage caused to them by employees;

5) employees on matters of the application of labour legislation which, in accordance with legislation, have been decided by the employer and a trade union acting within their stipulated rights;

6) the chief officer of an organisation appearing the capacity of an employee;
(point 6 of Article 241 as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

7) employees concerning the invalidity of particular terms and conditions of an employment contract as stipulated by Article 22 of this Code;
(point 7 of Article 241 has been inserted by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

8) employees concerning the invalidity of particular terms and conditions of an employment contract as stipulated by the first paragraph of Article 23 of this Code.
(point 8 of Article 241 has been inserted by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

The courts shall also directly examine disputes concerning refusal to conclude an employment contract with:

1) persons recruited for a job through the procedure for transfer to another employer;

2) graduates who have been assigned to a workplace by allocation or job placement and who have appeared for work at a specific employer;
(point 2 of the third paragraph of Article 241 as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

3) other persons with whom an employer is obligated by legislation to conclude an employment contract;

4) persons for discriminatory reasons.

Employees shall be exempt from payment of court expenses for examination of individual labour disputes.

Article 242. Time limits on petitioning for examination of labour disputes

Employees may petition a labour dispute commission or, in circumstances specified by legislative acts, a court within three months of the day when they became aware of or should have become aware of an infringement of their rights; and in matters concerning dismissal petition a court within one month of receipt of the copy of the order of dismissal or from the day on which the grounds for terminating the employment contract have been entered in the cumulative work record or from the day of refusal to issue or receive such documents.

For matters pertaining to compensation for financial damage caused to an employer by an employee, a time limit of one year from the day of discovery of the damage shall be established.

Time limits indicated in the first paragraph of this Article shall be applied to petitioning a court by a prosecutor.

In the event that the time limits established in this Article are not observed for reasonable cause, they may be revised by a labour dispute commission or court.

The fifth paragraph of Article 242 has been deleted – Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Article 243. Reinstatement in a job, to a previous workplace or previously existing work conditions

In the event that an employment contract is terminated without legal grounds, and also in the event of unlawful transfer, change in work conditions or suspension from work, the body examining a labour dispute shall reinstate the employee in the previous job, to a previous workplace or to previously existing work conditions.

In the event that a court finds reinstatement of an employee impossible or unsuitable for reasons unrelated to the commission of culpable acts by the employee, then the court shall have the right to propose and, with the consent of the employee, obligate the employer to pay the employee compensation in the amount of ten average monthly wages.
(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

Article 244. Payment for involuntary absence from work or to perform a lower-paid job
(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

In the event of an employee's reinstatement to a previous job, and also of changes in the formulation of cause for dismissal which prevented an employee from finding a new job, the employee shall be paid average wages for the period of involuntary absence from work. The recovery of an employee's average wages during an involuntary absence from work shall be offset by severance paid upon dismissal, compensations and other payments to which the employee was entitled in accordance with legislation and (or) a collective contract, other local regulations pertaining to dismissal, wages received from another employer after unlawful dismissal, benefits for incapacity to work because of pregnancy and paid during the period of involuntary absence from work.

In the event of unlawful transfer, relocation, material modifications of work conditions, or suspension from work, the employee shall, following the decision of the body examining the labour dispute, receive payment of average wages for the period of involuntary absence from work or the difference from the wages received in a lower-paid job.

The employer may make the payments stipulated by this Article in the absence of a decision by the body which is examining the labour dispute.

Article 245. Imposition of financial liability on an official guilty of unlawful dismissal, transfer, relocation, material modifications of work conditions or suspension from work

A court shall impose on an official guilty of unlawful dismissal, transfer, relocation, material modifications of work conditions or suspension from work the obligation of compensation for damage caused in connection with involuntary absence from work or performing lower-paid work.

In accordance with the first paragraph of this Article, the obligation to compensate for damage shall be imposed, provided that the dismissal, transfer, relocation, material modifications of work conditions or suspension from work proceeded in violation of the law, and also for delay in implementing the decision of a court to reinstate an employee to a job, previous workplace or previously existing work conditions.

Article 246. Compensation for moral damage

ConsultantPlus: comment.

In specifying the amount of compensation for moral damage, a court is to consider the degree of culpability of the guilty party and other extenuating circumstances. A court may also take into account the degree of physical and mental suffering in connection with the individual characteristics of the injured person. (second paragraph of Article 152 of the Civil Code of the Republic of Belarus.)

In the event of dismissal without lawful grounds or in violation of the established procedure for dismissal or of unlawful transfer to another job, a court shall have the right, upon request of the employee, to issue a decision concerning compensation for moral damage caused to the employee by those actions. The court shall determine the amount of the moral damage.

Article 247. Immediate implementation of certain decisions and resolutions on labour matters

A decision or resolution adopted by a body for examining labour disputes as specified by Article 243 of this Code shall be immediately implemented.

In the event that an employee delays execution of such a decision or resolution, then the employee shall be paid average wages or the difference in wages from the day of issuance of the decision or resolution to the day of its implementation by the employer.

In accordance with legislation concerning enforcement proceedings, a decision by a court concerning the payment of wages to an employee is also subject to immediate implementation, but not for more than one month.

(as amended by the Law of the Republic of Belarus dated 24 October 2016 N 439-Z)

Article 248. Time limits for implementation of a decision of a labour dispute commission

A decision of a labour dispute commission is subject to implementation by the employer no later than three days after the expiration of the ten-day period during which the decision may be appealed, with the exception of Article 247 of this Code.

Article 249. Compulsory implementation of a decision of a labour dispute commission

(as amended by the Law of the Republic of Belarus dated 24 October 2016 N 439-Z)

In the event that an employer fails to implement a decision of a labour dispute commission within the stipulated time (Article 248), the commission shall issue to the employee a certificate which is a writ of execution.

The certificate shall not be issued in the event that either the employee or the employer has applied within the prescribed time limit (Article 242) to a court concerning resolution of the labour dispute commission.

The certificate shall indicate:

the name and location of the commission which made the decision concerning the labour dispute and the surname and initials of a duly authorized person;

the date of the decision by the commission;

information about the employee: surname, given name, middle name (if any), place of residence (place of stay), date and place of birth (provided that information on birthplace is available, information on the identifying document (identification number, series [if any], number, date of issue and name of the issuing organisation);

information about the employer: title, location, registration number and date of state registration of a legal entity, tax identification number;

the actionable part of the commission's decision;

date of issuance of the certificate.

The certificate shall be signed by the chairperson and the secretary of the labour dispute commission and shall be authenticated by the official seal of the labour dispute commission.

On the basis of a certificate issued and delivered within three months to an enforcement body, an enforcement officer shall ensure compliance with the decision of the labour dispute commission in accordance with the procedure prescribed by law for enforcement proceedings.

In the event that an employee exceeds the three-month time limit for reasonable cause, the labour dispute commission which issued the certificate may renew the time limit.

Article 250. Limits on the amounts paid in accordance with the decisions of bodies empowered to examine labour disputes

Recovery of amounts paid to an employee in accordance with the decision of a labour dispute commission in cases in which a labour dispute was resolved in a different way, and also amounts payable in accordance with the decision of a court concerning a labour dispute in which a decision has been rescinded in accordance with a review procedure, shall be permissible only in circumstances in which the rescinded decision was based upon an employee's report of false information or the employee's presentation of falsified documents.

Article 251. Reconciliation, mediation and arbitration bodies for settlement of individual labour disputes

The employer with the consent of a trade union may create reconciliation, mediation and arbitration bodies for settlement of individual labour disputes.

The operating procedures of the bodies referred to in the first paragraph of this Article shall be determined by the parties that have created them. This shall not restrict the right of an employee to protection in court.

SECTION III

SPECIAL CONSIDERATIONS IN REGULATING THE WORK OF PARTICULAR CATEGORIES OF EMPLOYEES

CHAPTER 18

SPECIAL CONSIDERATIONS IN REGULATING THE WORK OF THE CHIEF OFFICER OF AN ORGANISATION AND MEMBERS OF AN ORGANISATION'S COLLEGIAL EXECUTIVE BODIES

Article 252. The chief officer of an organisation

ConsultantPlus: comment.

Chief officer positions in an organisation are to be designated by such titles as general director, director, head, chief, chairperson, or managing director. (third paragraph of point 6 of the General Provisions of the Uniform Qualification Guidelines for Employment Capacities approved by Decree of the Ministry of Labour and Social Protection of the Republic of Belarus dated 2 January 2012 N 1)

The chief office of an organisation is an individual person who by law or by a founding document of the organisation is to exercise leadership of the organisation, including fulfilling the functions of its sole executive body.

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

The provisions of this chapter shall apply to the chief officer of organisations of any legally constituted form, except those in which the chief officer is the sole owner of the organisation's property or is an individual entrepreneur.

Article 253. Legal regulation of the work of the chief officer of an organisation

The rights and obligations of the chief officer of an organisation shall be determined by this Code, legislative acts, a founding document, and also an employment contract.

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Article 254. Concluding an employment contract with the chief of an organisation

ConsultantPlus: comment.

A sample form for a contract with the chief officer of a state organisation has been established by Decree of the Ministry of Labour and Social Protection of the Republic of Belarus dated 22 June 2007 N 87.

An employment contract with the chief officer of an organisation shall be concluded by the owner of the organisation's property or by a body (organisation) duly authorized by the owner for a period established by a founding document of the organisation or by agreement between the parties, unless stipulated otherwise by legislative acts.

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z, 8 January 2014 N 131-Z and 18 July 2019 N 219-Z)

The owner of the organisation's property or the body (organisation) duly authorized by the owner shall have the right to establish in the organisation's founding document the procedures stipulated for concluding an employment contract with its chief officer (holding a competition, election or making an appointment to the position, etc.)

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Article 255. Limits on concurrent jobs

ConsultantPlus: comment.

The chief officer of a non-state legal entity which is part of a holding company may, with the consent of the owner of that legal entity's property (general assembly of participants or, if so prescribed by the charter [founding document], of the board of directors (supervisory board), may perform work on the basis of the principal employment contract in other non-state legal entities which are participants in that holding company. (point 14 of Decree of the President of the Republic of Belarus dated 28 December 2009 N 660)

The chief officer of a state organisation or of an organisation, 50 percent or more of whose authorized capital stake (shares) is the property of the state, shall be prohibited from performing paid concurrent jobs, except in pedagogical (as part of executing the terms of an educational programme), scientific or other creative activity, and also for medical practice, unless stipulated otherwise by legislative acts.

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

The chief officer of an organisation shall not be on the staff of the bodies that exercise oversight and control functions over the organisation.

Article 256. Material liability of the chief officer of an organisation

The chief officer of an organisation bears full material liability for actual damage caused to the property of the organisation.

Article 257. Additional grounds for terminating an employment contract with the chief officer of an organisation

In addition to the grounds stipulated by this Code, an employment contract with the chief officer of an organisation may also be terminated on the following grounds:

- 1) economic insolvency (bankruptcy) proceedings brought against the organisation;
- 2) the decision of the owner of the organisation's property or of a body duly authorized by the owner to terminate the employment contract.

Article 258. Terminating an employment contract with the chief officer of an organisation in the event of economic insolvency (bankruptcy) proceedings brought against the organisation

In the event that economic insolvency (bankruptcy) proceedings are brought against the organisation, the employment contract with the chief officer of the organisation may be terminated on the initiative of the owner of the organisation's property or of a body duly authorized by the owner.

Article 259. Terminating an employment contract with the chief officer of an organisation by decision of the owner of the organisation's property or of a body duly authorized by the owner

Upon the decision of the owner of the organisation's property or of a body duly authorized by the owner, the employment contract with the chief officer of the organisation may be terminated before its expiration in the absence of culpable activities (misconduct) by the chief officer of the organisation. In that event, the owner of the organisation's property or a body duly authorized by the owner shall pay to the chief officer of the organisation compensation for early termination of the employment contract an amount stipulated by the employment contract.

Article 260. Early termination of an employment contract on the initiative of the chief officer of an organisation

The chief officer of an organisation shall have the right to early termination of the employment contract provided that the owner of the organisation's property or a body duly authorized by the owner has been warned in writing at least one month in advance.

If the employment contract is terminated without reasonable cause, the chief officer of the organisation at the request of the owner of the organisation's property or of a body duly authorized by the owner shall pay compensation to the organisation in the amount stipulated by the employment contract.

In particular, reasonable causes shall be:

1) reaching the age of retirement pension by the chief officer of an organisation;

2) illness which interferes with job performance;

3) need to care for a family member who is ill;

4) infringement by the owner of the organisation's property or a body duly authorized by the owner of the terms and conditions of the employment contract.

Article 261. Special considerations in regulating the work of members of an organisation's collegial executive bodies

The founding document of an organisation may apply the special considerations in the regulation of work established by this Chapter to members of a collegial executive body of the organisation.

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

CHAPTER 18-1

SPECIAL CONSIDERATIONS IN REGULATING THE WORK OF EMPLOYEES WITH WHOM INDEPENDENT CONTRACTOR AGREEMENTS HAVE BEEN CONCLUDED

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

ConsultantPlus: comment.

Provisions concerning the procedures and condition for concluding independent contractor agreements with employees have been approved by Decree of the Council of Ministers of the Republic of Belarus dated 25 September 1999 N 1476.

Article 261-1. Concluding an independent contractor agreement

An independent contractor agreement may be concluded between the parties:

1) upon recruitment for employment;

2) with an employee with whom an employment contract for an indefinite period or for a fixed period has been concluded;

3) in other circumstance stipulated by this Code and other legislative acts.

In the circumstances stipulated by legislation, concluding an independent contractor agreement shall be mandatory.

Article 261-2. Terms and conditions of an independent contractor agreement

In addition to the information and the terms and conditions stipulated by Article 19 of this Code as mandatory, an independent contractor agreement shall contain the following information and terms and conditions as mandatory;

1) the days and intervals (no less than once a month) on which wages are to be paid;

2) conduct of certification at least once every three years, unless specified otherwise by the President of the Republic of Belarus;

3) such other work incentives as:

up to five additional paid incentive days off;

increase of the base wage (base salary) by no more than 50 percent, provided that a greater amount has not been stipulated by legislation; while, for employees of state-funded organisations and of other organisations which are subsidized and of employees whose remuneration has been set equal to that for employees of state-funded organisations, an increase of no more than 50 percent of the salary.

For employees of state-funded organisations and of other organisations which are subsidized and of employees whose remuneration has been set equal to that for employees of state-funded organisations, the amount of such increase shall be established (modified) within the funding stipulated in accordance with legislation for remuneration in the respective fiscal (calendar) year. Any such decrease in the amount shall be applied through the procedures and under the conditions stipulated by Article 32 of this Code;

4) decrease (withholding) of all forms of bonuses, regardless of the application of disciplinary liability, for:

absenteeism from the workplace without reasonable cause, overdue performance of or failure to perform work duties without reasonable cause;

use of state property for unofficial purposes;

5) reduction of an employee's annual leave for the applicable year by the number of absentee days or days of deliberate failure to carry out work duties for more than three hours in a workday without reasonable cause. For this to apply, annual leave must be at least 24 calendar days;

6) obligation of the employee to inform the employer in writing one month prior to the expiration of the independent contractor agreement of their intention to continue or terminate the employment;

7) obligation of the employer to inform the employee in writing one month prior to the expiration of the independent contractor agreement of its intention to continue or terminate the employment or to conclude an employment contract for an indefinite period (provided that the employee has fulfilled the conditions stipulated in the first paragraph of Article 261-4 of this Code).

Negotiations concerning the content of an independent contractor agreement with an employee who is a member of a trade union shall be conducted with the participation of a representative of that trade union.

A sample form for an independent contractor agreement has been approved by the Government of the Republic of Belarus.

Article 261-3. Term of an independent contractor agreement. Extending an independent contractor agreement. Concluding a new independent contractor agreement. Terminating an independent contractor agreement upon its expiration

An independent contractor agreement shall be concluded for a period of no less than one year and no more than five years (maximum period in force for an independent contractor agreement). The specific term in force of an independent contractor agreement shall be determined by agreement between the parties

Each of the parties concluding an independent contractor agreement shall inform the other in writing no later than one month prior to the expiration of an independent contractor agreement of their intention to continue or terminate employment.

An extension of an independent contractor agreement within its five-year period in force for a period of no less than one year shall be implemented by agreement between the parties; for an employee who has not committed any infractions of technical, procedural or work discipline, extension may be for as much as the maximum period of the independent contractor agreement currently in force. An extension of an independent contractor agreement for a shorter period may be applied with the employee's consent in writing, unless stipulated otherwise by the President of the Republic of Belarus.

Upon expiration of a five-year independent contractor agreement, and also in the event of transfer of an employee to another job by agreement between the parties, a new independent contractor agreement shall be concluded for a period of no less than one year; for an employee who has not committed any infractions of technical, procedural or work discipline, extension may be for a period of three years or with consent in writing from the employee for a shorter period but no less than one year.

An independent contractor agreement shall be terminated upon its expiration, unless the parties have chosen to extend the term of the independent contractor agreement or have concluded a new independent contractor agreement, provided that this Code (Article 261-5) or other legislative acts have not obligated the employer to extend the term of the independent contractor agreement or conclude a new independent contractor agreement, and also provided that grounds have arisen for continuation of employment under the terms and conditions of an employment contract concluded for an indefinite period (Article 261-4).

Article 261-4. Circumstances in which employment shall be continued under the terms and conditions of an employment contract concluded for an indefinite period

The employer shall, with consent in writing from an employee who has not committed any infractions of technical, procedural or work discipline and has worked for that employer for no less than five years, have the right upon expiration of an independent contractor agreement to conclude an employment contract for an indefinite period with that employee.

In the event that, upon expiration of an independent contractor agreement, employment in fact continues and that neither of the parties has requested termination of employment, then such employment shall be deemed extended under the terms and conditions of an employment contract concluded for an indefinite period. The beginning of the period in force of the employment agreement shall be deemed the day following the day of expiration of the independent contractor agreement. In such circumstances, employment shall be formulated in accordance with Articles 18 and 19 of this Code no later than the day following the day on which one of the parties has presented the other with a request to conclude an employment contract.

The force of the first paragraph of this Article shall not extend to employees who have concluded independent contractor agreements which are mandatory in accordance with legislation.

Article 261-5. Guarantees for concluding, extending and terminating independent contractor agreements with particular categories of employees

Independent contractor agreements shall not be concluded with employees who are pregnant, women with children under three years of age (for children with disabilities, less than eighteen years of age) or with employees with whom employment contracts for an indefinite period have been concluded without their consent to an independent contractor agreement.

The term of an independent contractor agreement with pregnant women with their consent shall extend for the period of their pregnancy or another period agreed upon between the parties.

The employer shall, with the consent of the employee, extend the term of an independent contractor agreement or conclude a new one:

1) with employed women who are on leave for pregnancy and maternity, with mothers (with fathers instead of the mother or with a guardian) on leave to care for children under three years of age for a period no less than the period of such leaves;

2) mothers (with fathers instead of the mother or with a guardian) who are at work prior to or after leave to care for children under three years of age for a period no less than five years until the child reaches five years of age;

3) with an employee who has worked conscientiously and has not committed any infractions of technical, procedural or work discipline and is no more than two years from attaining the generally applicable age for retirement pension until they attain that age.

With the consent of employees specified in the third paragraph of this Article and with whom an employment contract has been concluded for an indefinite period, in the event that an independent contractor agreement is concluded, its period in force shall be determined in accordance with the first paragraph of Article 261-3 of this Code and with the third paragraph of this Article.

In the event of early termination of an independent contractor agreement in connection with an infraction by an employer of labour legislation, a collective contract or an independent contractor

agreement, compensation in the amount of three average monthly wages shall be payable to the employee.

CHAPTER 19

SPECIAL CONSIDERATIONS IN THE REGULATION OF WORK BY WOMEN AND EMPLOYEES WITH FAMILY RESPONSIBILITIES

Article 262. Jobs in which employment of women is prohibited

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

ConsultantPlus: comment.

Sanitation standards and rules “Work Conditions Requirements for Women” had been approved by the Ministry of Health of the Republic of Health of the Republic of Belarus dated 12 December 2012 N 194.

It shall be prohibited to recruit women to perform strenuous jobs and jobs with harmful and (or) hazardous work conditions, and also for jobs underground, except for certain underground jobs (without physical labour or for sanitation and maintenance services).

It shall be prohibited to recruit women to perform jobs involving manual lifting and carrying of heavy loads beyond the standard limits for them, unless stipulated otherwise by this Code.

The list of strenuous jobs and jobs with harmful and (or) hazardous work conditions in which employment of women is prohibited shall be approved by a national state administrative body which implements state labour policy.

The standard limits on manual lifting and carrying of heavy loads for women shall be established by a national state administrative body which implements state health policy.

Article 263. Prohibitions and limitations of night work, overtime work, work on state holidays and celebratory days

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

It shall be prohibited to recruit pregnant women for overtime work, work on state holidays and celebratory days (first paragraph of Article 147), night work and weekend days and to dispatch them on business trips.

Women who have children less than fourteen years of age (for children with disabilities, less than eighteen years of age) may be recruited for overtime work, work on state holidays and celebratory days (first paragraph of Article 147), night work and weekend days and to dispatch them on business trips only with their consent in writing.

Article 264. Transfer to less demanding work for pregnant women and women with children under one and a half years of age

Pregnant women, in accordance with the findings of a medical advisory commission or a medical rehabilitation expert commission, shall have reduced production quotas or service quotas, or shall be transferred to another job with less demanding work and without exposure to harmful and (or) hazardous industrial factors; and they shall retain the average wages of their previous job.

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z and 8 January 2014 N 131-Z)

Until such time as the matter of providing a pregnant woman, in accordance with the findings of a medical advisory commission or a medical rehabilitation expert commission with another job with less demanding work and without exposure to harmful and (or) hazardous industrial factor, she shall be exempt from work with retention of average wages at the expense of the employer for all workdays missed for such cause.

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z and 8 January 2014 N 131-Z)

Women who have children under one and a half years of age and for whom it is not possible to continue performing their previous job shall be transferred to another job with retention of average wages from the previous job until the child attains one and a half years of age.

Article 265. Additional days off

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Mothers (stepmothers) or fathers (stepfathers) or guardians (custodians) caring for a child less than eighteen years of age with disabilities shall, upon their application, be provided once per month with one additional day off from their job paid in the amount of their average wage at the expense of the state social insurance fund through the procedure and under the conditions determined by the national state administrative body which implements state labour policy.

Mothers (stepmothers) or fathers (stepfathers) or guardians (custodians) caring for a child less than eighteen years of age with disabilities or for three or more children under sixteen years of age shall, upon their application in writing, be provided once each week with one additional day off from their job paid in the amount of their average wage through the procedure and under the conditions determined by the national state administrative body which implements state labour policy.

Mothers (stepmothers) or fathers (stepfathers) or guardians (custodians) caring for two children less than sixteen years of age shall, upon their application, be provided once per month with one additional day off from their job. A collective contract or other local regulation may stipulate the payment for such days.

(as amended by the Law of the Republic of Belarus dated 18 July 2018 N 219-Z)

The additional days off stipulated by the first and second paragraphs of this Article may be used by either the mother (stepmother) or father (stepfather), or they may be allocated between these persons according to their preference.

Additional days off in a week which are stipulated by the second paragraph of this Article shall not be provided during a week in which an additional day off in a month is provided as stipulated by the first and third paragraphs of this Article.

(as amended by the Law of the Republic of Belarus dated 18 July 2018 N 219-Z)

Article 266. Leave for employees who have adopted children or been appointed their guardian

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

An employee who has adopted a child less than three months of age or been appointed guardian shall be provided with pregnancy and maternity leave for duration of 70 calendar days from the day of adoption or establishment of guardianship. During pregnancy and maternity leave state benefits shall be assigned and paid from the state social insurance fund through the procedure prescribed by law.

Upon request of an employee who has adopted a child or been appointed guardian shall be provided with leave to care for a child less than three years of age through the procedures and under the conditions stipulated by Article 185 of this Code.

Article 267. Work breaks for nursing a child

Women with children less than one and a half years of age shall be provided with work breaks for nursing children in addition to the general work breaks for rest and meals.

Such work breaks shall be provided every three hours and have duration of no less than 30 minutes each. In the event that an employee has two or more children less than one and a half years of age, the duration of breaks shall be no less than one hour.

Work breaks for nursing may be combined, upon request of the employee, with work breaks for rest and meals or may be taken together in their entirety at the beginning or end of the workday (work shift) with a corresponding reduction of the workday.

Work breaks for nursing shall be included in the workday and shall be paid according to the average wage.

Article 268. Guarantees for pregnant women, women with children and single parents concerning conclusion and termination of an employment contract

(as amended by the Law of the Republic of Belarus dated 18 July 2018 N 219-Z)

ConsultantPlus: comment.

Single mothers to whom guarantees apply should include unmarried women with children whose birth certificates have the father entered through the established procedure in accordance with the mother's instruction, and also widows (widowers) who have not remarried and are caring for a minor child. (fourth paragraph of point 22 of Resolution of the Plenum of the Supreme of the Republic of Belarus dated 29 March 2001 N 2)

ConsultantPlus: comment.

Liability for unjustified refusal to hire or for unjustified dismissal of a woman by reason of her pregnancy or deliberate unlawful dismissal of a person from work has been established by Article 199 of the Criminal Code of the Republic of Belarus.

Refusing to conclude an employment contract with women and to reduce their wages by reason of their pregnancy or having children less than three years of age, and for single parents, children under fourteen years of age (under eighteen years of age for children with disabilities) is prohibited.

In the event of refusal to conclude an employment contract with employees in such categories, the employer shall inform them in writing of the reasons for refusal no later than three days after application. Refusal to conclude an employment contract may be contested in court.

ConsultantPlus: comment.

The employer with consent of the mother (father of the child in place of the mother, guardian) who has appeared at work prior to or after leave to care for a child under three years of age shall extend (conclude a new) contract for a duration no less than the time until the child reaches five years of age. (second paragraph of point e of Decree of the President of the Republic of Belarus dated 12 April 2000 N 180)

Terminating an employment contract on the initiative of the employer is prohibited:

1) by reason of reduction in the number or status of employees (point 1 of Article 42) and in the circumstances specified in points 3 to 5 of Article 42 of this Code, with pregnant women, women who have children under three years of age, or single parents who have children under three years of age;

2) by reason of reduction in the number or status of employees (point 1 of Article 42) and in the circumstances specified in point 5 of Article 42 of this Code, with single parents who have children from three to fourteen years of age (eighteen years of age for children with disabilities).

Article 269. Issuing vouchers to pregnant women for sanatoriums and rest homes and providing them with financial assistance

The employer may issue vouchers to pregnant women for sanatoriums and rest homes at no charge or on preferential terms as well as provide them with financial assistance.

Article 270. Additional guarantees to employees of employers employing mostly women

Employers who employ mostly women may, on their own initiative and also in circumstances specified by legislation or a collective contract, organize nurseries and kindergartens, rooms for breastfeeding infants and for women's personal hygiene; and may determine in accordance with medical recommendations workplaces and types of work (including from home) to which pregnant women may be transferred when necessary, and also independently or on a shared basis arrange special subdivisions for their employment.

Article 271. Guarantees to fathers, single parents, other relatives, a child's family members and to guardians (custodians)

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z and 18 July 2019 N 219-Z)

Leave to care for a child less than three years of age shall be provided, according to the preference of the family, to an employed father or other relative, family member, or guardian who is in fact caring for the child, through the procedures and under the conditions stipulated by Article 185 of this Code. Leave to care for a child less than three years of age shall be provided to a stepmother, provided that such leave has not been provided to an employed father, other relative or family member of the child.

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Leave to care for a child less than three years of age shall be provided to the persons specified in the first paragraph of this Article in the event that the mother cannot provide care due to disability of category I or to an illness which prevents her from caring for the child, as confirmed by the findings of a medical advisory commission.

(second paragraph of Article 271 has been inserted by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z; as amended by the Law of the Republic of Belarus dated 8 January 2014 131-Z)

An employed father or other relative, family member, or guardian who is in fact caring for an ill child less than fourteen years of age, a child less than three years of age and a child with disabilities under eighteen years of age in the event that the mother is ill, and also a guardian (custodian) of a child shall have the right to benefits for temporary incapacity to work through the procedures and under the conditions stipulated by legislation.

(as amended by the Law of the Republic of Belarus dated 8 January 2014 131-Z)

The fourth paragraph of Article 271 has been deleted – Law of the Republic of Belarus dated 8 January 2014 131-Z.

An employed father on leave to care for a child shall enjoy the guarantees stipulated by point 1 of the third paragraph of Article 268 of this Code.

(fourth paragraph of Article 271 has been inserted by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z; as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z and 18 July 2019 N 219-Z)

An employed father caring for children without the mother (by reason of her lengthy [in excess of one month] stay in a health care organisation and for other reasons), single parents, and also guardians (custodians) of children shall have the right to the guarantees stipulated by legislation, a collective contract or agreement to mothers.

(fifth paragraph of Article 271 as amended by Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

ConsultantPlus: comment.

Concerning organisation of the activities of student brigades within the Republic of Belarus, see Decree of the President of the Republic of Belarus dated 16 April 2012 N181.

CHAPTER 20

SPECIAL CONSIDERATIONS IN THE REGULATION OF WORK BY YOUNG PERSONS

Article 272. Permissible age for concluding an employment contract

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Concluding an employment contract with persons who have reached sixteen years of age shall be permissible.

With consent in writing from one parent (adoptive parent, guardian) an employment contract may be concluded with persons who have attained fourteen years of age in order to perform light work or pursue a professional sport which:

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

1) is not harmful to their health and development;

2) does not interfere with general secondary, vocational and technical and secondary special education.

The list of light types of work which may be performed by persons from fourteen years to sixteen years of age shall be approved by the national state administrative body which implements state labour policy.

Article 273. The rights of minors in labour relations

ConsultantPlus: comment.

At bodies charged with labour, employment and social protection in their location, Employers who arrange temporary employment of young persons offer listings of jobs (vacancies) with indication of their number, information about the types of work and times for performing them, the required number of young persons, the procedures and conditions under which work is organised and how they are to be paid. (point 5 of Provisions “On the procedure for organising and financing temporary employment after close of the school day for young persons” as approved by Decree of the Council of

Ministers of the Republic of Belarus dated 23 June 2010 N 958)

Minors (persons less than eighteen years of age) have rights equal to those of adults in labour relations, and in matters of occupational safety, working hours, leaves and other work conditions shall enjoy the guarantees established by this Code, other legislative acts, collective contracts or agreements.

Article 274. Jobs for which persons less than eighteen years of age may not be recruited
(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

ConsultantPlus: comment.

In accordance with the third paragraph of Article 16 of Law of the Republic of Belarus dated 23 June 2008 N 356-Z, persons less than eighteen years of age are not permitted to perform heavy work or jobs with harmful and (or) hazardous work conditions, underground work and mining, unless such jobs last no more than four hours per day for students from sixteen to eighteen years of ages who are in apprenticeships or training for an industrial trade.

Employing persons less than eighteen years of age in strenuous jobs and in jobs with harmful and (or) hazardous work conditions or in underground and mining jobs is prohibited.

The list of jobs for which recruitment of persons less than eighteen years of age is prohibited shall be approved by the national state administrative body which implements state labour policy.

Manual lifting and carrying by minors of loads which exceed the standards established for them is prohibited, unless stipulated otherwise by this Code. Maximum loads which minors may lift and carry manually shall be established by the national state administrative body which implements state health policy.

Article 275. Medical examinations for persons less than eighteen years of age

All persons less than eighteen years of age shall be employed only after a preliminary medical examination has been conducted; and until they attain eighteen years of age they shall be subject to an annual mandatory medical examination, unless stipulated otherwise by this Code.
(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Annual mandatory medical examinations of employed minors shall be conducted during working hours with retention of average wages.

Article 276. Prohibition of recruiting employees less than eighteen years of age for night work and overtime and for work on state holidays and celebratory days
(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Recruiting employees less than eighteen years of age for night work and overtime and for work on state holidays and celebratory days (first paragraph of Article 147) and on weekend days is prohibited, unless stipulated otherwise in this Code.

Article 277. Annual leave for persons less than eighteen years of age

Annual leave for persons less than eighteen years of age shall be provided in summer or, in accordance with their preference, and any other time of year.

Article 278. Production quotas for young persons

The production quotas for employees less than eighteen years of age shall be derived from those established for adult employees in proportion to the reduced duration of working hours prescribed by law for this category of employees.

For employees who have been hired after receiving general secondary education, special education at a general secondary level, or vocational and technical training and general special education who have been trained directly in the workplace, reduced production quotas may be established. The amount and duration of the reduced production quotas shall be determined by a collective contract.

(second paragraph of Article 278 as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Article 279. Remuneration for employees less than eighteen years of age with a reduced work week

ConsultantPlus: comment.

Minors from fourteen to eighteen years of age have the right to dispose of their wages, stipends and other personal income independently and without the consent of their legal representatives. (sub-point 1 of point 2 of Article 25 of the Civil Code of the Republic of Belarus)

ConsultantPlus: comment.

Income received by children between fourteen and sixteen years of age for work they have performed while in work and rest camps which conduct their activities lawfully is exempt from income tax on individual persons. (point 62 of Article 208 of the Tax Code of the Republic of Belarus)

Remuneration of employees less than eighteen years of age for reduced duration of daily work shall be provided at the same rate as remuneration of employees in the same category for a full workday.

(first paragraph of Article 279 as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Work of employees less than eighteen years of age employed for piecework shall be paid at the same piecework rate as that established for adult employees with additional payment according to the base wage (base salary) or the salary for the period by which their daily work is reduced in comparison to that of the daily work of adult employees.

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Remuneration of students pursuing general education, special education at a secondary level, vocational and technical training and general special education and working after instruction shall be paid in proportion to hours worked or to their output. Employers may establish additional wages for students.

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Article 280. Positions reserved for recruitment of young persons for employment and occupational training

Local executive and regulatory bodies of organisations shall establish positions that those organisations shall reserve for recruitment to employment and occupational training of persons seeking employment for the first time, less than 21 years of age, and persons who are orphaned children and children without parental care.

(first paragraph of Article 280 as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

The second paragraph of Article 280 has been deleted by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z.

ConsultantPlus: comment.

Liability for unreasonable refusal by an official of an employer to hire a citizen referred by labour, employment and social protection bodies for reserved positions has been established by point 1 of Article 9.16 of the Administrative Offences Code of the Republic of Belarus.

Refusal to hire persons referred for reserved positions or to accept them for occupational training is prohibited. These persons may bring suit concerning such refusal in court.

Article 281. Providing the first employment

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Graduates of state educational institutions who have received technical and vocational training, special secondary and higher education and who have been assigned to a workplace by allocation, persons with psychological developmental disabilities who have received special education at the level of general secondary education, military conscripts who have been released from the Armed Forces and from other troops and military units of the Republic of Belarus, and also citizens released from alternative service shall be guaranteed first employment. The procedures and conditions for providing first employment for such persons shall be determined by the Government of the Republic of Belarus.

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

First employment shall be deemed a job provided:

to graduates of state educational institutions who have been provided with employment through an allocation in accordance with qualifications attained, provided that they have not been otherwise employed prior to enrolment at an education institution;

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

persons with special psychological and physical needs who have received special education at the level of general secondary education, provided that they have not been employed;

military servicepersons who have been released from the Armed Forces and from other troops and military units of the Republic of Belarus, and also citizens released from alternative service, provided that they were not employed at the time of their conscription or assignment to alternative service.

(as amended by the Law of the Republic of Belarus dated 4 June 2015 N 277-Z)

Article 282. Additional guarantees to employees less than eighteen years of age in the event of termination of an employment contract on the initiative of the employer

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Termination of an employment contract with an employee less than eighteen years of age on the grounds specified by point 1 to 5 of Article 42 of this Code shall be permissible provided that, in addition to compliance with the general procedure, only with consent, and on the grounds specified by points 6 to 11 of Article 42 and points 2 and 3 of Article 44 of this Code, there has been prior notification, no less than two weeks in advance, of the regional (municipal) commission on affairs of minors, unless stipulated otherwise by this Code.

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

CHAPTER 21

SPECIAL CONSIDERATIONS IN REGULATING THE WORK OF PERSONS WITH DISABILITIES

Article 283. Exercise of the right to employment of persons with disabilities

Persons with disabilities with due regard for individual rehabilitation programmes for persons with disabilities shall be assured the right to work at employers with ordinary work conditions, and also at specialized organisations, workshops and facilities.

(as amended by the Law of the Republic of Belarus dated 17 July 2009 N 48-Z)

Refusal to conclude an employment contract, refusal of promotion at work and termination of an employment contract on the initiative of the employer, and transfer of a person with disabilities to a different job without their consent by reason of their having disabilities is prohibited, except in the event that performing work duties is contraindicated by the individual rehabilitation programme of the person with disabilities.

(second paragraph of Article 283 as amended by the Law of the Republic of Belarus dated 17 July 2009 N 48-Z)

Terminating an employment contract on the initiative of the employer with a person with disabilities who is undergoing medical, occupational, work and social rehabilitation in the corresponding organisations, regardless of the amount of time spent in them, except in the event that dismissal of the person with disabilities is on grounds acknowledged by legislative acts as defamatory circumstances of dismissal, is prohibited.

(as amended by the Law of the Republic of Belarus dated 17 July 2009 N 48-Z and 18 July 2019 N 219-Z)

Article 284. Preferences and guarantees for employers which hire persons with disabilities

Employers which hire persons with disabilities shall enjoy preferences and guarantees stipulated by law.

Article 285. Obligations of employers to employ employees who have been disabled in a given industry

(as amended by the Law of the Republic of Belarus dated 17 July 2009 N 48-Z)

ConsultantPlus: comment.

Liability for an employer's failure to fulfil the obligation to provide a position for employment of employees who have been disabled as a result of injury or occupational illness or other harm to health in performing their work duties for that employer has been established by point 2 of Article 9.15 of the Administrative Offences Code of the Republic of Belarus.

Employers shall create jobs for the employment of employees who have been disabled as a result of injury at work or occupational illness in that industry.

Article 285. Creation of specialized organisations, workshops and facilities to employ persons with disabilities

For the purpose of employing persons with disabilities and with due regard for the distinctive features of labour, employment and social protection bodies, employers shall create additional

employment positions (including specialized ones), specialized organisations, workshops and facilities for persons with disabilities.

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Employers shall create employment positions (including specialized ones) for the employment of persons with disabilities in accordance with legislation.

Article 287. Work conditions and leave for persons with disabilities

No test shall be applied in hiring persons with disabilities.

The employer shall create for employees with disabilities work conditions in accordance with their individual rehabilitation programmes, including by arranging for their occupational training and work at home.

(as amended by the Law of the Republic of Belarus dated 17 July 2009 N 48-Z)

Work conditions, including wages and schedule of working hours, shall be established by an employment contract or agreement and may not be detrimental to the status nor restrict the rights of persons with disabilities in comparison with other employees.

(as amended by the Law of the Republic of Belarus dated 17 July 2009 N 48-Z)

For persons with disabilities of categories I and II reduction in working hours to no more than 35 hours per week shall be established. In such circumstances, their remuneration shall be in the same amount as that of employees performing in the same employment capacity (occupation) for full standard working hours.

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z and 18 July 2019 N 219-Z)

Recruitment of persons with disabilities for overtime work, night work and work on state holidays and celebratory days (first paragraph of Article 147) and work on weekend days shall be permissible only with their consent and under the condition that such work is not prohibited by the individual rehabilitation programmes for persons with disabilities.

(as amended by the Law of the Republic of Belarus dated 17 July 2009 N 48-Z)

Assigning persons with disabilities to business trips shall be permissible only with their consent.

The employer shall have the right to decrease the production quota for persons with disabilities depending upon their state of health.

The eighth paragraph of Article 287 has been deleted – Law of the Republic of Belarus dated 20 July 2007 N 272-Z.

In the event of reductions in the number or status of employees, persons with disabilities who have equal productivity and qualifications shall have a preferential right to remain at work.

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Persons with disabilities who work in specialized organisations, workshops and facilities which employ persons with disabilities have a preferential right to retain their employment regardless of their productivity and qualifications.

(as amended by the Law of the Republic of Belarus dated 17 July 2009 N 48-Z)

Article 288. Rights and obligations of employers in social maintenance of persons with disabilities

Persons with disabilities have worked for an employer prior to their qualifying for a pension retain rights equal to those of that employer's employees to medical care, maintenance of residence, stays at health and treatment institutions, and also to other social services and guarantees stipulated by collective contracts and agreements.

The employer shall have the right to establish allowances and additional payments to the pensions of persons with disabilities, and especially for those who are single and in need of assistance by others and care, and also to offer other guarantees established by this Code and collective contracts and agreements.

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

CHAPTER 22

SPECIAL CONSIDERATIONS IN REGULATING THE WORK OF EMPLOYEES WITH PARTIAL WORKING HOURS

Article 289. Establishing part-time working hours

Part-time working hours shall be established by agreement between an employee and an employer, either at the time of recruitment or subsequently (Article 118).

The employer shall establish a partial workday or work week:

1) upon the request of pregnant women, women with children less than fourteen years of age (including those under her guardian ship), of an employee who is caring for an ill family member in accordance with a medical certification of health status;

(as amended by the Laws of the Republic of Belarus dated 20 July 2007 N 272-Z and 8 January 2014 N 131-Z)

2) persons with disabilities in accordance with individual rehabilitation programmes for persons with disabilities;

(point 2 of the second paragraph of Article 289 as amended by the Law of the Republic of Belarus dated 17 July 2009 N 48-Z)

3) upon recruitment for combined jobs;

4) for other categories of employees stipulated by a collective contract or agreement.

Terms and conditions for working with reduced hours shall be included in an employment contract at the time of recruitment of an employee. Transfer to partial working hours during a period of work activity shall be implemented by an order (instruction).

Article 290. Remuneration of employees with partial working hours

Remuneration of employees with partial working hours shall be in proportion to the hours worked (for hourly remuneration) or in relation to output (for piecework remuneration).

Article 291. Prohibition on restricting the rights of employees with partial working hours

Working under conditions of partial working hours shall not entail any limitation on the duration of annual leave or in the calculation of seniority and other labour rights.

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Information concerning partial working hours shall not be entered in an employee's cumulative work record.

CHAPTER 23

SPECIAL CONSIDERATION IN REGULATING THE WORK OF TEMPORARY EMPLOYEES

Article 292. The concept of temporary employees

A temporary employee shall be deemed an employee recruited to work for no more than two months, or in the event of replacing an absent employee for who shall retain the job or employment capacity (occupation) for no more than four months.

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Legislation on labour with exemptions established by this Chapter shall apply to temporary workers, including those engaged for seasonal work.

Article 293. Concluding an employment contract

Terms and conditions concerning the temporary nature of work shall be indicated in the employment contract.

No preliminary test shall be applied in hiring temporary employees.

Article 294. Terminating an employment contract

Temporary employees shall have the right to terminate an employment contract with notification in writing to the employer three days in advance.

An employment contract with temporary employees may be terminated on the grounds specified in point 5 of the second paragraph of Article 35, Article 42 (except for point 5) and Article 44 of this Code, and also in the event of:

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z and 18 July 2019 N 219-Z)

1) suspension from work at an employer for more than one week for causes related to production, and also for reduction in the volume of work;

2) absenteeism from work during more than two consecutive weeks as a result of temporary incapacity to work. In the event that the capacity to work has been lost as a result of injury or occupational illness, and also when legislation has established a longer period for retention of a job or employment capacity (occupation) for specific illnesses, temporary employees shall retain their job or employment capacity (occupation) until capacity to work has been recovered or disability has been established, but no longer than to the end of the term of employment in accordance with the employment contract.

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

3) failure without reasonable cause of temporary employees to perform the duties assigned to them by the employment contract, rules of internal work procedures and this Code;

4) infringement by the employer of labour legislation, a collective contract or employment contract.

(point 4 of the second paragraph of Article 294 has been inserted by Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Article 295. Severance benefits

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Severance benefits for temporary employees shall be paid:

1) in the circumstance specified by point 1 of the second paragraph of Article 294 of this Code, in the amount of one weekly average wage;

2) in the circumstances specified by point 4 of the second paragraph of Article 294 of this Code, and also in the event of conscription into military service or assignment to alternative service, in the amount of two weekly average wages.

(as amended by the Law of the Republic of Belarus dated 4 June 2015 N 277-Z)

Article 296. Payment of average wage during involuntary absence

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

A temporary employee reinstated in a job shall be paid, in accordance with the decision of body charged with examining labour disputes, average wages for a period of involuntary absence from the day of dismissal until reinstatement in the job or the expiration of the employment contract, but for no more than three consecutive months, in accordance with the procedure stipulated by the first paragraph of Article 244 of this Code.

A temporary employee unlawfully transferred to another job shall be paid, in accordance with the decision of body charged with examining labour disputes, average wages for the period of involuntary absence or the difference in wages for the period working at a lower-paid job, but for no more than three months.

The employer may provide the payments stipulated in this Article in the absence of a decision by a body charged with examining labour disputes.

Article 297. Recruitment for work on state holidays, celebratory days and weekend days

Temporary employees who have concluded an employment contract for no more than six days may, during that period, be recruited to work on state holidays, celebratory days (first paragraph of Article 147) and weekend days with their consent.

Other leave days shall not be provided for work on those days, and wages shall be paid in the ordinary amount.

Article 298. Circumstances in which an employment agreement with temporary employees shall be deemed extended for an indefinite period

An employment agreement with temporary employees shall be deemed extended for an indefinite period in the event that:

1) the temporary employee has worked more than the periods specified in the first paragraph of Article 292 of this Code and that neither of the parties has requested termination of employment;

2) a dismissed temporary employee has been hired again by the same employer after an interval of less than one week, provided that the employee's term of employment before and after that interval as a total exceeds two and four months, respectively.

In the circumstances specified by the first paragraph of this Article, temporary employees shall not be deemed temporary from the first day of concluding an employment contract.

CHAPTER 24

SPECIAL CONSIDERATIONS IN REGULATING THE WORK OF SEASONAL EMPLOYEES

Article 299. Seasonal employees

Employees who are employed in jobs which are not performed year round because of natural and climatic conditions and are performed during a specific period (season) which does not exceed six months shall be deemed seasonal.

Labour legislation with the exemptions established by this Chapter shall apply to seasonal employees.

The list of seasonal jobs shall be determined by the Government of the Republic of Belarus or by a body duly authorized by it.

Article 300. Concluding an employment contract

Terms and conditions concerning the seasonal nature of work shall be indicated in an employment contract.

An employment contract for seasonal work shall be concluded for a term not to exceed the duration of the season.

No test shall be applied in hiring seasonal employees.

Article 301. Terminating an employment contract

Seasonal employees shall have the right to terminate an employment contract with notification in writing to the employer three days in advance.
(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

An employment contract with seasonal employees may be terminated on the grounds specified in point 5 of the second paragraph of Article 35, Article 42 (except for point 5) and Article 44 of this Code, and also in the event of:
(as amended by the Laws of the Republic of Belarus dated 8 January 2014 N 131-Z and 18 July 2019 N 219-Z)

1) suspension from work at an employer for more than two weeks for cause related to production, or for reduction in the volume of work;

2) absenteeism of a seasonal employee from work during more than one month as a result of temporary incapacity to work. In the event that the capacity to work has been lost as a result of injury or occupational illness, and also when legislation has established a longer period for retention of a job or employment capacity (occupation) for specific illnesses, seasonal employees shall retain their job or employment capacity (occupation) until capacity to work has been recovered or disability has been established, but no longer than to the end of the term of employment in accordance with the employment contract.

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

3) infringement by the employer of labour legislation, a collective contract or employment contract.

(point 3 of the second paragraph of Article 301 has been inserted by Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Article 302. Severance benefits

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Severance benefits for seasonal employees shall be paid:

1) in the circumstance specified by point 1 of the second paragraph of Article 301 of this Code, in the amount of one weekly average wage;

2) in the circumstances specified by point 3 of the second paragraph of Article 301 of this Code, and also in the event of conscription into military service or assignment to alternative service, in the amount of two weekly average wages.

(as amended by the Law of the Republic of Belarus dated 4 June 2015 N 277-Z)

Article 303. Payment of average wage during involuntary absence

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

A seasonal employee reinstated in a job shall be paid, in accordance with the decision of body charged with examining labour disputes, average wages for a period of involuntary absence from the day of dismissal until reinstatement in the job or the expiration of the employment contract, but for no more than three consecutive months, in accordance with the procedure stipulated by the first paragraph of Article 244 of this Code.

A seasonal employee unlawfully transferred to another job shall be paid, in accordance with the decision of body charged with examining labour disputes, average wages for the period of involuntary absence or the difference in wages for the period working at a lower-paid job, but for no more than three months.

The employer may provide the payments stipulated in this Article in the absence of a decision by a body charged with examining labour disputes.

CHAPTER 25 SPECIAL CONSIDERATIONS IN REGULATING THE WORK OF EMPLOYEES WHO WORK FROM HOME

Article 304. The concept of employees who work from home

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Employees who have concluded an employment contract with an employer for performing work at home with their own labour and using their own materials, equipment, tools, mechanisms and fixtures, or using those provided by the employer or acquired at the expense of the employer shall be deemed employees who work from home.

Work performed at home shall be deemed work which the employee who works from home performs at their residence or at another place of their choosing outside the employer's premises.

Article 305. Preferential right to conclude an employment contract for work from home
(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

A preferential right to conclude an employment contract for work from home shall be granted to:

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

1) mothers (stepmothers), fathers (stepfathers) who are caring for a child less than sixteen years of age (for children with disabilities, less than eighteen years of age);

(point 1 of Article 305 as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

2) persons with disabilities and pensioners (regardless of the type of pension assigned);

3) persons with restricted capacity to work who have been recommended through an established procedure for employment at home;

4) persons caring for a person with disabilities or a family member during a long illness who require care because of their state of health;

5) persons engaged in jobs of a seasonal nature (during the off season), and also those pursuing education in daytime;

(as amended by the Laws of the Republic of Belarus dated 20 July 2007 N 272-Z and 8 January 2014 N 131-Z)

6) persons who for good and sufficient reason cannot be employed directly in production at a given location.

Article 306. Organising work and work conditions

Organisation of work from home shall be permissible only under conditions which comply with the requirement of occupational safety and for persons who have practical skills or who may be trained in the skills for performing particular jobs.

(first paragraph of Article 306 as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

The employer shall provide free of charge tools, equipment, mechanisms and fixtures for use by employees who work from home and shall promptly arrange for their maintenance.

In the event that an employee who works from home uses their own tools, equipment, mechanisms and fixtures, they shall be paid compensation (depreciation) for wear and tear in an amount and through a procedure which shall be determined by agreement with the employer.

Upon agreement between the parties, an employee who works from home may be reimbursed for other expenses in connection with working from home for the employer (cost of electricity, water, etc.).

The specific type of work for an employee who works from home shall be selected with due regard for their occupational knowledge, skills and state of health.
(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Particular types of work from home in accordance with general regulations for fire safety and sanitation, and also with the residential and domestic conditions of employees who work from home may be permitted only with approval from the corresponding bodies.

The procedure and time limit for providing raw materials, goods and sub-assemblies, the payments for manufactured goods, reimbursement for cost of materials (in the event that products have been produced from their own materials) and freight of finished products shall be established by an employment contract and (or) collective contract.

Article 307. Production quotas and remuneration

In the event that employees who work from home performs work under other organisational and technical conditions (use of their own tools, equipment, etc.), the employer with due regard for economic feasibility may establish other production quotas for them in response to the actual conditions of performing work from home.

All work performed shall be paid to employees who work from home in the ordinary amount, provided that a higher amount has not been established by an employment contract.

Employers shall have the right to reward employees who work from home in accordance with their current provisions for rewards, collective contracts and employment contracts.

CHAPTER 25-1

SPECIAL CONSIDERATIONS IN REGULATING THE WORK OF EMPLOYEES WHO PERFORM REMOTE WORK

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Article 307-1. Remote work

Work which an employee performs away from the location of the employer through the use of informational and communication technology to perform such work and coordinate with the employer shall be deemed remote work.

Current labour legislation and other legislative acts shall apply, with due regard for the special consideration established by this Chapter, to employees who perform remote work.

The conditions for exchange between the employer and an employee who performs remote work of electronic documents or reports in electronic form (including SMS texts, files and notes) which contain assignments in writing, other information for performing work duties, results of work performed, notifications and explanations by the employee, information, orders and other documents from the employer in connection with modifications to or termination of an employment contract shall be determined by an employment contract.

Assignments in writing, other information for performing work duties, results of work performed, notifications and explanations by the employee, and also other documents not requiring signed acknowledgement from the employee may be sent by exchange of files with texts of the documents in electronic form.

In the event that need arises for employees who perform remote work to acknowledge documents with their signature, they may be informed of them by exchange of electronic documents or files with the texts of such documents in electronic form with subsequent dispatch to the employees within two workdays of hard copies of the documents by registered mail with notice of delivery.

Article 307-2. Special considerations of an employment contract with an employee who performs remote work

Concluding a contract with an employee who performs remote work shall be permitted only in the actual presence of that employee. Additional agreements concerning modifications determined by the parties of the terms and conditions of an employment contract for an employee who performs remote work may be concluded by exchange of electronic documents or in the actual presence of the employee. The place where the employment contract is concluded, and also where additional agreements concerning modifications determined by the parties of the terms and conditions of an employment contract, shall be the place where the employer is located. It is mandatory that the employment contract indicate that the work is remote. In the event that an agreement concerning modifications determined by the parties of the terms and conditions of an employment contract has been concluded by means of exchange of electronic documents, then the employer shall dispatch within two workdays from the day of concluding the agreement with the employee who is performing remote work a duly executed hard copy of the agreement by registered mail with notice of delivery.

An employment contract may stipulate additional terms and conditions concerning the duties of an employee who performs remote work, the use of equipment, software and technology, means for ensuring security of information and of other means established or recommended by the employer.

An employment contract shall stipulate the procedure and time limits for providing employees who perform remote work with the equipment, software and technology, means for ensuring security of information and of other means necessary for the performance of their work duties; the procedure and time limits for employees who perform remote work to submit reports concerning work performed; the amount, procedure and time limits for payment of compensation for the use by employees who perform remote work of equipment, software and technology, means for ensuring security of information and of other means owned or leased by such employees; and the procedure for reimbursement of other expenses incurred in performing remote work.

Upon agreement between the parties, an employee who performs remote work may be reimbursed for other expenses incurred in performing their work duties.

The means and frequency of work contact by an employee who performs remote work with the employer shall be stipulated by the employment contract.

Article 307-3. Occupational safety for employees who perform remote work

In order to maintain safe conditions and occupational safety for an employee who performs remote work, the employer shall acquaint the employee who performs remote work with the requirements for occupational safety of working with the equipment and means provided or recommended by the employer.

Other obligations of the employer for maintaining safe conditions and occupational safety may be stipulated by an employment contract.

Article 307-4. Special considerations scheduling working hours and time off for an employee who performs remote work

The standards for duration of working hours and time off established by this Code shall apply to an employee who performs remote work.

The working hours and time off for an employee who performs remote work shall be established in the employment contract by agreement with the employer or shall be determined by the employee independently as so specified in the employment contract. Organisation of recording working hours and time off and the requirement to provide breaks during the workday shall be determined by the employment contract.

The procedure for providing leaves to an employee who performs remote work shall be determined by the employment contract in accordance with this Code and other legislative acts.

307-5. Special considerations in terminating an employment contract with an employee who performs remote work

Informing an employee who performs remote work of the employer's order concerning termination of the employment contract shall be by means of exchange of electronic documents or in the presence of the employee. In the event that notification of the employee is by means of exchange of electronic documents, the employer shall on the day of termination of the employment contract dispatch to the employee who is performing remote work a duly executed hard copy of the agreement by registered mail with notice of delivery.

CHAPTER 26

SPECIAL CONSIDERATION IN REGULATING THE WORK OF DOMESTIC EMPLOYEES

Article 308. The concept of domestic workers

A person who, in accordance with an employment contract, performs household maintenance for a citizen or provides technical assistance in literary or other creative activities, and other types of services specified by legislation shall be deemed a domestic employee.

A person who provides care for persons with disabilities of category I who are among military servicepersons rendered disabled as a result of wounds, concussion or injuries suffered in the course of their military duty, or in connection with illnesses associated with presence at a front of combat; and also a person who provides care for persons with disabilities of category I, those who have reached 80 or more years of age, for children with disabilities who are less than eighteen years of age and for children less than eighteen years of age infected with HIV or afflicted by AIDS; and also a person who, in accordance with an employment contract, performs work for an individual person who provides services in the field of agro-ecotourism are not domestic employees. Special considerations in legal regulation of the work of such persons shall be specified by law.

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Article 309. Concluding an employment contract

An employment contract with a domestic employee shall not be concluded in the event that work is of a short-term nature (less than a total of 10 days in a month).

ConsultantPlus: comment.

For domestic employees who work for individual persons under an employment contract (independent contractor agreement), the cumulative work records are to be set up and maintained by local executive and administrative bodies at the primary territorial level. (point 6 of Instructions on the Procedure for Maintaining Cumulative Work Records approved by Decree of the Ministry of Labour and Social Protection of the Republic of Belarus dated 16 June 2014 N 40)

Conclusion of an employment contract with a domestic employee must be registered with a local executive and administrative body at the primary territorial level no later than seven day after it has been signed by the parties.

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Article 310. Restrictions on concluding an employment contract with domestic employees who are close relatives

Concluding an employment contract for domestic work by persons who are close relatives or related by law (parents, spouses, brothers, sisters, sons, daughters, as well as the brothers, sisters, parents and children of spouses) is prohibited.

Article 311. Terminating an employment contract

An employment contract with a domestic employee may be terminated by agreement between the parties with notification of the parties to the contract three days in advance.

In the event that the terms and conditions of an employment contract have been infringed, it may be terminated at any time on the grounds specified by this Code or the employment contract.

An employment contract bearing a notation of its termination shall be conveyed by the parties to the local executive and administrative body at which the contract was registered.

Article 312. Working hours and time off

Working hours and time off for domestic employees shall be regulated by agreement between the parties. However, the duration of the work week may not exceed that established by Article 112 of this Code.

Actual days off shall be negotiated by the parties in an employment contract.

Domestic employees shall have the right to annual leave with duration of no less than 24 calendar day (Article 155) through the procedure and under the conditions established by this Code. (as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

Article 313. Remuneration

Remuneration of domestic employees shall be executed through the procedures and in the amount specified in the employment contract.

Second paragraph of Article 313 had been deleted – Law of the Republic of Belarus dated 20 July 2007 N 272-Z.

Second paragraph of Article 313 had been deleted – Law of the Republic of Belarus dated 8 January 2014 N 131-Z.

Article 314. State social insurance for domestic employees

State social insurance shall apply to domestic employees working for citizens under an employment contract.

CHAPTER 26-1 SPECIAL CONSIDERATIONS IN REGULATING THE WORK OF EMPLOYEES ACTIVE IN PROFESSIONAL SPORTS

(inserted by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Article 314-1. Legal regulation of employment of athletes and trainers

The provisions of this Chapter shall apply to athletes and trainers active in professional sports.

Article 314-2. Concluding an employment contract

ConsultantPlus: comment.

Concerning civil contracts in professional athletics, see Decree of the Ministry of Sport and Tourism of the Republic of Belarus dated 14 July 2014 N 26.

A fixed-term employment contract shall be concluded with athletes and trainers, unless stipulated otherwise by this Code or other legislative acts.

In addition to the information and the terms and conditions stipulated by the second paragraph of Article 19 of this Code, it is mandatory that an employment contract with athletes indicate terms and conditions concerning:

1) obligations of the employer:

to ensure that athletic events are conducted and that athletes participated in athletic competitions under the guidance of a trainer (trainers);

to familiarize the athlete with acknowledgement by signature at the time of their recruitment to employment and, during the period that the employment contract is in force, with the terms and conditions of the employer's contracts with organisations which provide financial assistance, with advertisers, and with organisers of athletic events and in particular with those directly associated with the activities of the athlete;

2) obligations of athletes:

to observe the training regime;

to fulfil the plan of participation in athletic competitions;

to take part in athletic competitions only at the direction of the employer;

to observe the rules of athletic competitions for the type of sport and the provisions of the rules (regulations) for conducting the athletic competitions in which they are participating;

ConsultantPlus: comment.

The register of federations (affiliations, associations) for a type (types) of sport is posted on the official website of the Ministry of Sport and Tourism of the Republic of Belarus (<http://www.mst.by/ru>).

to participate when summoned (notified) by a national state administrative body which implements state policy in the field of physical culture and sport, or by a federation (affiliation, association) of a type (types) of sport included in the register of federations (affiliations, associations) of a type (types) of sport, in athletic events as part of a select team of the Republic of Belarus for a type of sport;

to maintain control of doping in accordance with the legislation concerning physical culture and sport;

to undergo medical examinations in accordance with the procedures established by law;

to inform the employer of the state of their health and immediately inform the employer of illness including traumas and other negative impact on their state of health;

to maintain the good reputation of the employer in public appearances before mass media.

In addition to the information and the terms and conditions stipulated by the second paragraph of Article 19 of this Code, an employment contract with a trainer, it is mandatory that an employment contract indicate terms and conditions concerning:

1) the obligation of the employer to familiarize the trainer with acknowledgement by signature at the time of their recruitment to employment and, during the period that the employment contract is in force, with the terms and conditions of the employer's contracts with organisations which provide financial assistance, with advertisers, and with organisers of athletic events that are directly associated with the activities of the trainer;

2) obligations of the trainer:

not to permit doping in the sport;

to observe the rules of athletic competitions for the type of sport and the provisions of the rules (regulations) for conducting the athletic competitions in which they are participating;
(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

to participate when summoned (notified) by a national body of state administration which executes state policy in the field of physical culture and sport, or by a federation (affiliation, association) of a type (types) of sport, in athletic events as part of a select team of the Republic of Belarus for a type of sport;

to maintain the good reputation of the employer in public appearances before mass media.

An employment contract with athletes and trainers may, upon agreement between the parties, stipulate additional terms and conditions concerning:

1) obligation of the athlete to achieve given athletic results;

2) obligation of the trainer to ensure the achievement of a given athletic results by athletes (team of athletes);

3) obligation to use during working hours athletic uniforms, equipment and accessories provided by the employer;

4) consent of the athlete or trainer for the employer to convey a copy of their employment contract to the federations (affiliations, associations) of a type (types) of sport included in the register of the federations (affiliations, associations) of the type (types) of sport;

5) payment to the employer of financial compensation for termination of the employment contract in the circumstances specified by Article 312 to 314 of this Code, and also the amount and procedure for payment of such compensation.

Article 314-3. Medical examinations of athletes

For the purpose of determining fitness to perform the work assigned, for prophylaxis of occupational illness and to avert sports trauma, athletes are subject to preliminary (at the time of hiring) and periodic (while active at work but no less than once each year, and for athletes less than eighteen years of age, no less than once every six months) mandatory medical examinations, as well as unscheduled medical examination when their state of health deteriorates.

The procedure for conducting the medical examinations stipulated by the first paragraph of this Article shall be determined by the national state administrative body which implements state policy in physical culture and sport with the approval of the national state administrative body which implements state policy in the field of health.

The employer shall organize medical examination in the manner prescribed by law.

The employer shall bear the expense of medical examinations of athletes.

During time spent in the medical examination stipulate by this Article, athletes shall retain their jobs (employment capacities) and average wages.
(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

ConsultantPlus: comment.

On matters pertaining to the implementation of this Article, see the communication of the Sports Arbitration Court of the Belarusian Republican Union of Lawyers dated 30 October 2014 N 3.

Article 314-4. Temporary transfer to another employer

In the event that ensuring the participation of an athlete or trainer in athletic events is not possible, the employer may, through agreement in writing with another employer and with consent in writing from the athlete or trainer, arrange their temporary transfer to the other employer for continuation of employment in a professional sport for a period no longer than one year.
(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

For the period of temporary transfer to another employer for continuation of employment in a professional sport, the term in force of the fixed-term employment contract with the previous employers shall be suspended.

During the period of temporary transfer, the employer at the location of temporary employment shall conclude a fixed-term employment contract with the athlete or trainer in accordance with labour legislation and with due regard for the special considerations established by this Code.

The employer at the location of temporary employment shall not have the right to transfer the athlete or trainer to another employer.

Upon expiration of the period of temporary transfer of the athlete or trainer to another employer, and also upon early termination of an employment contract concluded for a period of temporary transfer of an athlete or trainer to another employer, the force of fixed-term employment contract with the athlete or trainer which was concluded with the previous employer shall be reinstated.

314-5. Suspension of participation in athletic competitions

The employer shall suspend an athlete or trainer from participation in a sport for the duration of proceedings to determine their disqualification in sports in the event of such proceedings, and an athlete or trainer subjected to lawful disqualification from a sport, except disqualification from a sport for doping, for the duration of their disqualification from the sport.

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

During the suspension of an athlete or trainer from participation in athletic competitions, the employer shall ensure their participation in instruction and training, in instruction and training conferences, in rehabilitative, preventive and health-building events, in testing, and in instructor and referee practices; and the employer shall pay wages in the following amounts:

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

1) for work actually performed, but no less than two thirds of the base wage (base salary) or salary established for them, until such time as a decision has been taken concerning disqualification of the athlete or trainer;

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

2) for work actually performed during the period of the disqualification from a sport of the athlete or trainer.

Article 314-6. Assignment to select teams of the Republic of Belarus for types of sport

ConsultantPlus: comment.

The register of federations (affiliations, associations) for a type (types) of sport is posted on the official website of the Ministry of Sport and Tourism of the Republic of Belarus (<http://www.mst.by/ru>).

The employer shall, upon summons (notification) by the national state administrative body which implements state policy in the field of physical culture and sport, or by a federation (affiliation, association) of a type (types) of sport included in the register of federations (affiliations, associations) by a type (types) of sport, assign athletes or trainers to participate in athletic events as part of select teams of the Republic of Belarus for types of sport.

The expenses of athletes or trainers for travel to the location of athletic events as part of select teams of the Republic of Belarus for types of sport and their return shall be reimbursed in accordance with the procedure and in the amounts stipulated by the national state administrative body which implements state policy in the field of physical culture and sport with the approval of the national state

administrative body which implements uniform financial policy or of the national state administrative body which implements state policy in the field of labour affairs.

Article 314-7. Special considerations for part-time work

An athlete or trainer shall have the right to work part-time for another employer only with the consent of the employer providing the principal job.

During a period of temporary transfer of an athlete or trainer to another employer (Article 314-4 of this Code), permission to work part-time must be obtained from both the employer providing the temporary job and the employer with which the original fixed-term contract has been concluded.

Article 314-8. Regulating the work of women athletes

During participation in athletic events, women athletes shall be permitted to exceed the standard limits on manual lifting and carrying of heavy loads established for women in accordance with this Code, provided that this is necessary according to the plan of preparation for athletic competitions and that the loads handled are not prohibited by their state of health in accordance with the findings of a medical advisory commission.

Article 314-9. Regulating the work of athletes less than eighteen years of age

The provisions of this Code which stipulate the circumstances and procedure for concluding employment contracts with persons less than eighteen years of age, and also the conditions under which they work, shall apply to employment of athletes less than eighteen years of age with due regard for the special considerations specified by this Chapter.

The duration of daily and weekly work for athletes less than eighteen years of age shall not exceed the maximum daily and weekly duration of working hours established by Articles 114 and 115 of this Code.

Assignment of athletes from fourteen to sixteen years of age to business trips shall be permissible only with their consent in writing and consent in writing from one of the parents (adoptive parents, guardians), and for athletes from sixteen to eighteen years of age, with their consent in writing. (as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Athletes from fourteen to sixteen years of age may be recruited for overtime work, work on state holidays and celebratory days (first paragraph of Article 147), weekend days, and night work with their consent in writing and consent in writing from one of the parents (adoptive parents, guardians), and for athletes from sixteen to eighteen years of age, with their consent in writing. (as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

During participation in athletic events, athletes less than eighteen years of age may exceed standard limits on manual lifting and carrying of heavy loads by minors established in accordance with this Code, provided that this is necessary according to the plan of preparation for athletic competitions and that the loads handled are not prohibited by their state of health in accordance with the findings of a medical advisory commission.

Article 314-10. Additional guarantees and compensations

The employer shall provide athletes and trainers with athletic costumes, equipment and accessories, and other physical and technical items necessary for the conduct of their work duties, and also maintain such equipment and accessories and items in a condition suitable for use.

Physical and technical provisioning of national and select teams of the Republic of Belarus for types of sport at the expense of national budgetary funds shall be arranged through the procedure established by the national state administrative body which implements state policy in the field of physical culture and sport.

Collective contracts, agreements and other local legal regulations, and employment contracts may stipulate additional guarantees and compensations for athletes and trainers, including:
(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

1) providing in rehabilitative, preventive and health-building events for the purpose of strengthening, rehabilitating and maintaining the health of athletes;

2) paying additional compensations in connection with travel to work in another locality;

3) providing, at the employer's expense, food, social and maintenance services, and compensation for transportation expenses during participation in athletic competitions.

Exclusion of an athlete by the employer from the application to participate in an athletic competitions, including in the event that the athlete's preparation does not meet the requirements established by the organizer of the athletic competition, shall not constitute grounds for reducing the athlete's wages. In such circumstances, the employer shall ensure the athlete's participation in instruction and training, in instruction and training camps, in rehabilitative, preventive and health-building events, in testing, and in instructor and referee practices.
(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Article 314-11. Additional grounds for terminating an employment contract

An employment contract with an athlete or trainer shall be terminated in the event of their disqualification from a sport for doping.
(first paragraph of Article 314-11 has been inserted by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

In addition to the grounds stipulated by this Code and other legislative acts, an employment contract with an athlete may be terminated in the event that:

1) disqualification of an athlete from a sport for a period of six or more months, except in the event of disqualification from a sport for doping;
(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

2) deleted;
(point 2 has been deleted – Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

3) failure to achieve given athletic results, provided that achievement of such results has been stipulated in the employment contract and that the employer has provided the athlete with the conditions necessary to achieve them.

Terminating an employment contract with an athlete less than eighteen years of age on the grounds specified by the first and second paragraphs of this Article shall be permissible only after prior notification, at least two weeks in advance, of the regional (municipal) commission on affairs of minors. (as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

In addition to the grounds stipulated by this Code and other legislative acts, an employment contract with a trainer may be terminated in the event that:

1) disqualification of a trainer from a sport for a period of six or more months, except in the event of disqualification from a sport for doping;
(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

2) failure of an athlete (team of athletes) to given achieve athletic results, provided that achievement of such results by the athlete (team of athletes) has been stipulated in the employment contract with the trainer and that the employer has provided the athlete (team of athletes) with the conditions necessary to achieve them.

314-12. Financial compensation for terminating an employment contract

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

An employment contract with an athlete or trainer may stipulate terms and conditions concerning the obligations of the athlete or trainer which incur payment of financial compensation to the employer in the event that an employment contract is terminated:

1) with an athlete on the grounds specified by points 6 and 7 of Article 42, the second paragraph of Article 47, and point 1 of the second paragraph of Article 314-11 of this Code;

2) with a trainer on the grounds specified by points 6 and 7 of Article 42, the second paragraph of Article 47, and point 1 of the fourth paragraph of Article 314-11 of this Code.

The amount of financial compensation and the procedure for its payment shall be stipulated by the employment contract.

CHAPTER 27

SPECIAL CONSIDERATIONS IN REGULATING THE WORK OF EMPLOYEES IN PARTICULAR ECONOMIC SECTORS AND CERTAIN OCCUPATIONS

Article 315. Special considerations in regulating the work of employees in the lumber industry and forestry

This Code shall apply, with the following special considerations, to employees in jobs directly connected with the fundamental technical processes of the lumber industry and forestry:

1) temporary transfer which is not stipulated by an employment contract to another job with one and the same employer by reason of production exigencies, in particular to replace an absent employee, shall be permissible for up to three months during a calendar year;

2) deleted;

(point 2 has been deleted – Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

3) the total duration of working hours in the workday (shift) may be increased, but by no more than 12 hours and with a corresponding reduction of workdays at another time in the reporting period and (or) provision of additional days off. In the event that work continues for more than normal working hours and, due to production exigencies, may not be compensated with another day off and reduction in workdays, then it shall be remunerated as overtime;

4) the duration of daily (between shifts) time off may be reduced below the standard, but to no less than 12 hours, not including breaks for rest and meals. in the cumulative total of working hours, unused hours off between shifts may be added together and provided as another day off during the reporting period.

5) the duration of weekly continuous time off may be reduced to 32 hours in the cumulative total of working hours. On average over the reporting period, it must meet the standards stipulated by Chapter 10 of this Code.

The list of categories of employees in the lumber industry and forestry to whom the special considerations stipulated by the first paragraph of this Article apply shall be established by the Government of the Republic of Belarus or by a body duly authorized by it.

Article 316. Deleted

(Article 316 has been deleted – Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Article 317. Special considerations in regulating working hours and time off for agricultural employees

Employees in crop production and agricultural organisations shall maintain a cumulative total record of working hours for the annual reporting period (calendar or fiscal year) within which the employer shall have the right:

1) during a period of labour-intensive field work (sowing, crop maintenance, harvesting fodder, harvesting, tilling, and more) to increase the workday (shift) to 10 hours, and with consent of the employee to 12 hours;

2) to compensate overtime which arises by means of reduction of the workday (shift) in another period of the season or in the winter or (and) by providing other days off (in the amount of one day off for 8 hours of overtime).

Employees in automotive transport maintenance shops, warehouses and other subdivisions which serve in crop husbandry may establish a cumulative total of working hours at given periods of labour-intensive field work during which the employer shall have the right to increase the duration of the workday for such employees to 10 hours, provided that the average duration of working hours for each reporting period does not exceed the work (shift) schedule for the standard number of hours.

The employer may establish for employees in animal husbandry a division of the workday into no more than three parts, between which breaks of at least two hours shall be provided, including breaks for rest and meals. In such circumstances, the total duration of working hours must not exceed the duration of the workday for that category of employees.

Article 318. Special considerations in regulating working hours and time off in organisations providing communications, electricity and transport

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

Special considerations in the legal regulation of working hours and time off in organisations providing communications, electricity and transport within the limits established by this Code shall be determined by the provisions on working hours and time off for those particular categories of employees, as approved by the Government of the Republic of Belarus or by a body duly authorized by it.

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

The employee has the right to maintain records of working hours in accordance with the standards for their cost.

Article 319. Special considerations in regulating the work of certain categories of employees

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Special considerations in regulating the work (competitive replacement of officials, hourly wages, and others) of creative and scientific employees and of employees who conduct training in physical and sports shall be established by legislation.

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Special considerations in regulating the work of medical employees shall be stipulated by the national state administrative body which implements state health policy; and for employees of organisations for physical culture and sport, including athletes and trainers of national and select teams of the Republic of Belarus for types of sport, by the national state administrative body which implements state policy in the field of physical culture and sport, with due regard for the standards established by this Code.

Article 320 has been deleted – Law of the Republic of Belarus dated 8 January 2014 N 131-Z.

Article 320. Special considerations in regulating the work of pedagogical employees and other employees who take part in the certification of students or in educational events

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Labour relations and other relations connected with them for pedagogical employees shall be regulated by this Code and other legislative acts with due regard for the special considerations established by this Article.

For certain categories of pedagogical employees, reduction of working hours to no more than 36 hours per week, including standard hours in the teaching load for a salary shall be established.

The list of pedagogical employees for whom reduction of working hours, and also of the standard hours in the teaching load for a salary shall be determined by the national state administrative body which implements state policy in the field of education.

The employer shall have the right to issue an order (instruction) assigning pedagogical employees with their consent to organisations providing health and recreation services or health treatment services or to educational institutions providing care and health treatment in order to implement educational programmes and programmes for care of children in need of health treatments in accordance with legislation.

The remuneration and procedure for assigning pedagogical employees to organisations providing health and recreation services or health treatment services or to educational institutions

providing care and health treatment shall be determined by the national state administrative body which implements state policy in the field of education.

The employer shall have the right upon a request from another organisation and with consent of the employee to assign that employee to take part in certification of students or in educational events conducted by that organisation. For the period of taking part in certification of students or in educational events, the employee shall retain their job and average wages.

Employees who have been assigned to take part in certification of students or in educational events at an organisation in another locality away from the place of principal employment shall enjoy the guarantees and compensation stipulated by Article 95 of this Code.

Other special considerations in regulating the work of pedagogical employees, including competition to replace a given official, shall be established by the Government of the Republic of Belarus or by a body duly authorized by it.

Article 321. Special considerations in regulating labour relations and relations connected with them for diplomatic missions and consular institutions of foreign states accredited by the Republic of Belarus

Labour relations and relations connected with them for foreign employees of diplomatic missions and consular institutions of foreign states accredited by the Republic of Belarus shall be regulated by the legislation of the respective foreign state.

Labour relations and relations connected with them for employees who are citizens of the Republic of Belarus in the employ of diplomatic missions and consular institutions of foreign states accredited by the Republic of Belarus shall be regulated by this Code (with the exception of Section IV, and also the standards which regulate participation of trade unions [other workers' representatives] in regulating labour relations and relations connected with them) with due regard for the special considerations stipulated by this Article.

The national state administrative body which implements state policy in the field of internal relations shall participate in resolving labour disputes between employees who are citizens of the Republic of Belarus in the employ of diplomatic missions and consular institutions and those same diplomatic missions and consular institutions.

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Protection of the labour rights and rights associated with them of citizens of the Republic of Belarus in the employ of diplomatic missions and consular institutions of foreign states accredited by the Republic of Belarus shall be ensured by the national state administrative body which implements state policy in the field of labour, in the manner prescribed by the Government of the Republic of Belarus.

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Article 322. Regulating the work of employees assigned to work in institutions of the Republic of Belarus abroad

The labour legislation of the Republic of Belarus shall apply to employees of the Republic of Belarus assigned to work in institutions of the Republic of Belarus abroad (in diplomatic, commercial and permanent missions, consular institutions and others).

ConsultantPlus: comment.

In accordance with sub-point 5.7 of point 5 of Decree of the President of the Republic of Belarus dated 23 November 2017 N 7, business entities have the right to employ citizens of foreign countries or persons without citizenship who do not have permission to reside permanently in the Republic of Belarus and who are winners (laureates) of national (international) competitions or award-winners in their field of professional activity without obtaining a permit to recruit a foreign workforce and a special permit in the Republic of Belarus to employ such citizens of foreign countries and persons without citizenship.

ConsultantPlus: comment.

Concerning the procedure for employment of citizens of foreign member states of the Eurasian Economic Union and the application of social guarantees, see the clarification of the Ministry of Labour and Social Protection of the Republic of Belarus dated 17 January 2016.

Article 323. Special considerations in regulating the work of employed emigrants and immigrants

(as amended by the Law of the Republic of Belarus dated 30 December 2010 N 255-Z)

Special considerations in regulating the work of employed emigrants and immigrants shall be established by legislation and the international agreements of the Republic of Belarus.

CHAPTER 28

**SPECIAL CONSIDERATIONS IN REGULATING THE WORK OF EMPLOYEES WHO TOOK PART IN
MITIGATING THE CONSEQUENCES OF THE CATASTROPHE AT THE CHERNOBYL NUCLEAR PLANT, AND
OF PERSONS EQUIVALENT TO THEM**

Article 324. Deleted

(Article 324 has been deleted – Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

Article 325. Pre-emptive right to retain a job and employment in the event of reduction in the number or status of employees

In the event of reduction in the number or status of employees, a pre-emptive right to retain a job with equivalent job productivity and qualifications shall reside with the following categories of employees:

1) participants in mitigating the consequences of the catastrophe at the Chernobyl nuclear energy plant;

2) victims of illness and radiation sickness caused by the catastrophe at the Chernobyl nuclear energy plant and by other radioactive emergencies;

3) persons with disabilities the cause of which has been traced to an injury or illness resulting in disability brought about by the catastrophe at the Chernobyl nuclear plant.

(first paragraph of Article 325 as amended by the Law of the Republic of Belarus dated 12 May 2009 N 19-Z)

In the event that continuing to employ such employees in their previous job is not possible, a different job shall be provided to them on a first-priority basis or measures shall be taken to arrange for their employment at another organisation.

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

Article 326. Leave

(as amended by the Law of the Republic of Belarus dated 12 May 2009 N 19-Z)

Annual leave shall be provided in the summer or at another convenient time for the following categories of employees:

1) victims of illness and radiation sickness caused by the catastrophe at the Chernobyl nuclear energy plant and by other radioactive emergencies;

2) persons with disabilities the cause of which has been traced to an injury or illness resulting in disability brought about by the catastrophe at the Chernobyl nuclear plant;

3) those who took part in mitigating the consequences of the catastrophe at the Chernobyl nuclear plant;

4) those who were evacuated, resettled or who of their own volition departed from the area of radioactive contamination, from the evacuation (exclusion) zone, the priority resettlement zone and the subsequent resettlement zone, except for those who resided in those zones after 1 January 1990;
(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Social leave without retention of average wages for duration of 14 calendar days per year shall be provided to the following categories of employees:

1) victims of illness and radiation sickness caused by the catastrophe at the Chernobyl nuclear energy plant and by other radioactive emergencies;

2) persons with disabilities the cause of which has been traced to an injury or illness resulting in disability brought about by the catastrophe at the Chernobyl nuclear plant;

3) those who took part in mitigating the consequences of the catastrophe at the Chernobyl nuclear plant in 1986 and 1987 in an evacuation (exclusion) zone or were employed during that period in operating that plant or other work there (including those temporarily assigned or on business trips), including military servicepersons and those subject to conscription who were called up for special training and engaged in work connected with mitigating the consequences of that catastrophe.

CHAPTER 29

**SPECIAL CONSIDERATIONS IN REGULATING THE WORK OF EMPLOYEES WHO RESIDE (WORK)
IN AREAS WITH RADIOACTIVE CONTAMINATION**

Article 327. Regulating the work of employees who work in evacuation (exclusion) zones

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

Employees who work in evacuation (exclusion) zones, including those temporarily assigned or on business trips, shall have:

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

1) a work week of 35 hours;

2) increased per diem allowance for time assigned or on business trips;

3) deleted;
(point 3 has been deleted – Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

4) deleted;
(point 4 has been deleted – Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

Duration of basic leave for employees who work in evacuation (exclusion) zones shall be established by the Government of the Republic of Belarus with the approval of the President of the Republic of Belarus. Such leave shall be provided without taking into account additional leave for working in harmful and (or) hazardous work conditions.

(the second paragraph of Article 327 has been inserted by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

Actual conditions for work schedules and leaves, remuneration and the amount of compensations in evacuation (exclusion) zones shall be established by the Government of the Republic of Belarus or by a body duly authorized by it.

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

Article 328. Regulating the work of employees in areas with radioactive contamination in the priority resettlement zone, the subsequent resettlement zone, in the zone with the right to resettlement, and of employees with permanent (principal) residence in an area with radioactive contamination in the zone of subsequent resettlement and the zone with the right to resettle

(as amended by the Law of the Republic of Belarus dated 12 May 2009 N 19-Z)

Duration of basic leave for employees who work in areas with radioactive contamination in the priority resettlement zone, the subsequent resettlement zone, and in the zone with the right to resettle shall be established by the Government of the Republic of Belarus with the approval of the President of the Republic of Belarus. Such leave shall be provided without taking into account additional leave for working in harmful and (or) hazardous work conditions.

Persons who are permanently (principally) residing in areas with radioactive contamination in the priority resettlement zone, the subsequent resettlement zone, and in the zone with the right to resettle in the event of their resettlement have the right:

1) to terminate an employment contract without observing the time limits for prior notification of the employer stipulated by legislation;

2) to first-priority employment at a new locality of residence with due regard for the qualifications and employment capacity (occupation) of the person resettled. In the event that such employment is not possible, they shall be provided with a different job with due regard for their preferences and social requirements or for possible occupational retraining with retention of wages in accordance with the established procedures for the period of their training.

(as amended by the Laws of the Republic of Belarus dated 8 January 2008 n 131-Z and 18 July 2019 N 219-Z)

Article 329. Deleted

(Article 329 has been deleted – Law of the Republic of Belarus dated 12 May 2009 N 19-Z)

Article 330. Deleted

(Article 330 has been deleted – Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

Article 331. Deleted

(Article 331 has been deleted – Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

Article 332. Deleted

(Article 332 has been deleted – Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

Article 333. Duration of business trips (assignment) to an area with radioactive contamination

The duration of business trips (assignment) to an area with radioactive contamination shall not exceed one year.

Article 334. Deleted

(Article 334 has been deleted – Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

Article 335. Other special considerations in regulating the work of employees in areas with radioactive contamination

Other special considerations in regulating the work of employees in areas with radioactive contamination shall be established by legislation.

CHAPTER 30. DELETED

Deleted – Law of the Republic of Belarus dated 20 July 2007 N 272-Z

Article 336. Deleted

(Article 336 has been deleted – Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

Article 337. Deleted

(Article 337 has been deleted – Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

CHAPTER 31

GUARANTEES TO EMPLOYEES IN CONNECTION WITH FULFILING MILITARY DUTY

Article 338. Guarantees for employees in training for military service

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

Employees who are in training for military service which withdraws them from productive employment during the time of their training, including travel to locations of training (encampments) and return provided that this is in connection with departure from a place of residence, shall retain their jobs, employment capacity (occupation) and average wages at their jobs.

(as amended by the Laws of the Republic of Belarus dated 20 July 2007 N 272-Z, 8 January 2014 N 131-Z and 18 July 2019 N 219-Z)

Employers for whom those undergoing training for military service work shall bear the cost of renting lodging for the period of their training (encampment), and also the cost of travel to the location of training (encampment) and return in accordance with the standards established by legislation concerning business trips.

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

Article 339. Guarantees for employees summoned to military and special encampments

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

Those subject to military duty who are summoned to military and special encampments shall, for the duration of such encampments, including travel to the location of encampment and return provided that this is in connection with departure from a place of residence, shall retain their jobs, employment capacity (occupation) and average wages at their jobs for all workdays.

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z, 8 January 2014 N 131-Z and 18 July 2019 N 219-Z)

Employees indicated by the first paragraph of this Article may not be dismissed from employment on the initiative of the employer from the day of their receipt of summons to their return from military and special encampments, except in the event of liquidation of an organisation, termination of the operations of a branch office, of a representative office or of another separately established subdivision which is located in another locality, termination (cessation) in accordance with legislative acts of the activities of a lawyer acting as an individual to provide legal counsel, a notary conducting professional activities in a notarial office, an individual person conducting activities in the field of agro-ecotourism, or an individual entrepreneur.

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z, 8 January 2014 N 131-Z and 18 July 2019 N 219-Z)

Article 340. Guarantees to employees in connection with conscription or recruitment to military service and assignment to alternative service

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z and 4 June 2015 N 277-Z)

Employees conscripted to military service or assigned to alternative service shall be paid severance benefits in the amount established by Article 48 of this Code.

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z, 8 January 2014 N 131-Z and 4 June 2015 N 277-Z))

Employees shall be exempt from work for the time necessary to register at conscription centres, to register for and be recruited into military service, and to be registered as entering into the military and as being dismissed from it with retention of average wages at their workplace.

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

Employees accepted for testing to qualify for training in specialties (specialized fields, specializations) of the Armed Forces or other troops and military formations of the Republic of Belarus, preliminary investigation bodies, internal affairs bodies, financial investigation bodies of the State Control Committee, and emergency situations bodies and their subdivisions shall be provided with time to travel to the locations for qualifying examinations and return with retention of their jobs, employment capacities (occupations) and average wages at their workplace.

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z and 18 July 2019 N 219-Z))

ConsultantPlus: comment.

Medical examination *in absentia* (from documentation) is prohibited. (fourth paragraph of point 4 of the Provisions on Medical Advisory Expertise approved by Decree of the Council of Ministers of the Republic of Belarus dated 1 June 1998 N 868)

Employees referred for medical certification, medical check-up, medical examination and medical re-examination shall, for the time that they are located in a state health care organisation, retain their jobs, employment capacities (occupations) and average wages for all workdays at their workplace; and the military commissariat shall reimburse them for the cost of travel to the location of

medical certification, medical check-up, medical examination and medical re-examination and return in accordance with the standards established by the Government of the Republic of Belarus.
(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z and 18 July N 219-Z))

Article 341. Guarantees to family members of military servicepersons and of citizens assigned to alternative service

(as amended by the Law of the Republic of Belarus dated 4 June 2015 N 277-Z)

The wife (husband) and other family members of military servicepersons who have died in the course of fulfilling their military duty have the right to first priority referral by labour, employment and social protection bodies for occupational training, retraining and advancement of qualifications.
(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

The wives (husbands) of military servicepersons shall be paid severance benefits in the amount of two monthly average wages upon their dismissal from work in connection with transfer of the wife (husband) to serve in another locality.

Labour, employment and social protection bodies shall adopt measures to employ wives whose husbands have been immediately conscripted into military service or assigned to alternative service in accordance with legislation.

(third paragraph of Article 341 as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

The fourth paragraph of Article 341 has been deleted – Law of the Republic of Belarus dated 18 July 2019 N 219-Z.

Article 342. Guarantees to persons released from military service or from alternative service

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z and 4 June 2015 N 277-Z)

Persons dismissed from military service or from alternative service shall be guaranteed:
(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z and 4 June 2015 N 277-Z)

1) retention for three months from the day following the day on which military service or alternative service has ended of the right to return to work at the same employer in an employment capacity (occupation) equivalent to that occupied prior to conscription or assignment to alternative service; and persons who are young specialists or young employees (service providers) shall the right to occupy their previous employment capacity (occupation). In the event of illness or injury which was suffered while conscripted to military service or alternative service but does not prevent working, persons released from military service or alternative service shall have the right, for three months from the day of reinstatement in employment or of establishing disability, to return to work at the same employer in an employment capacity (occupation) equivalent to that occupied prior to conscription to military service or assignment to alternative service, provided that the employer is notified in writing.
(point 1 of the first paragraph of Article 342 as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

2) provision of a one-time financial benefit in an amount no less than one minimum wage to those released from military service or alternative service and accepted at their previous workplace;
(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z and 4 June 2015 N 277-Z)

3) provision of a first job, in accordance with the second paragraph of Article 281, to those released from military service or alternative service.
(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z and 4 June 2015 N 277-Z)

Labour, employment and social protection bodies together with national state administrative bodies which implement state policy in the field of defence and other bodies concerned shall implement measures for employment and occupational training of military servicepersons released from military service and of citizens released from alternative service.

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z, 8 January 2014 N 131-Z and 4 June 2015 N 277-Z)

CHAPTER 32

SPECIAL CONSIDERATIONS IN REGULATING PART-TIME EMPLOYEES

Article 343. General provisions concerning part-time work

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Part-time work is paid work performed by an employee when free from working hours at a principal job either for the same employer (internal part-time work) or for a different employer(s) (external part-time work) in accordance with the terms and conditions of an employment contract.

The employment contract shall indicate that the work is part-time.

Concluding employment contracts for part-time work with several employers is permissible, unless stipulated otherwise by legislative acts.

Consent of the employer at the place of principal employment shall not be required for concluding an employment contract for part-time work, except in the circumstance stipulated by this Code and other legislative acts.

Article 344. Documents for presentation upon recruitment for part-time work

(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z, 9 November 2009 N 51-Z and 8 January 2014 N 131-Z)

Upon recruitment to part-time work by another employer, the employee shall present a document that establishes identity. Upon recruitment to work which requires special knowledge, the employer has the right to require the employee to present a document establishing education or training; and upon recruitment to strenuous jobs or jobs with harmful and (or) harmful work conditions, a statement concerning the character and work conditions of the principal job.

Article 345. Duration of part-time working hours

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

The duration of working hours established by an employer for part-time employees may not exceed half the standard duration of working hours established by Articles 111 to 114 of this Code, unless stipulated otherwise by the second paragraph of this Article.

Employees on unpaid or partially paid leave on the initiative of the employer in circumstances of temporary cessation of work or reduction in its volume, and also employees on annual leave from their principal employment may work part-time for a full workday (shift)

(second paragraph of Article 345 as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Article 346. Remuneration of part-time employees

Remuneration of part-time employees shall be in proportion to time worked.

In the event that part-time employees are provided with hourly wages for standardized tasks, remuneration shall be in accordance with the final results of work actually performed.

Article 347. Annual leave for part-time employees

Annual leave for part-time employees shall be provided in accordance with their preferences simultaneously with annual leave from a principal job.

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

In the event that an employee has not worked part-time for six months, then annual leave shall be provided in advance.

In the event that the annual leave of a part-time employee is less than the annual leave at the principal job, the employer, upon request of the employee, shall provide them with unpaid social leave of the same duration.

A portion of annual leave for a part-time employee which exceeds annual leave at the principal job may, upon agreement between the employer and the employee, be replaced by financial compensation.

(fourth paragraph of Article 347 as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

Article 348. Limitations on part-time work

Occupying two chief officer positions on a part-time basis, except for the positions of master of a trade and foreman, shall be prohibited in state organisations, unless stipulated otherwise by legislation.

Part-time work is prohibited for person less than eighteen years of age, and also jobs with harmful and (or) hazardous work conditions, provided that legislation has stipulated reduction in working hours for the principal job and part-time job.

(second paragraph of Article 348 as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z)

Part-time work at state organisations is prohibited for co-working of persons specified in Article 27 of this Code in connection direct subordination or control.

(third paragraph of Article 348 as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Recruiting persons convicted of financial crimes, provided that such judgment has not been withdrawn or settled through the established procedure, for part-time work in employment capacities which bear financial liability, and also for such employment capacities or types of activities as have been prohibited by court verdict for certain categories of citizens, is prohibited.

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Limitations on part-time work may be stipulated by legislation for certain categories of employees.

Article 349. Guarantees and compensations for part-time employees

ConsultantPlus: comment.

Concerning provision of compensation for jobs with harmful and (or) hazardous work conditions when employed on an internal or external part-time basis, see the clarification of the Ministry of Labour and Social Protection of the Republic of Belarus.

Guarantees and compensations stipulated for employees who combine work while pursuing an education shall be provided only at the principal workplace.
(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Other guarantees and compensations stipulated by this Code and other legislative acts, collective contracts, agreements and other local regulations shall be provided in full to part-time employees.
(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z and 18 July 2019 N 219-Z)

Article 350. Terminating an employment contract with part-time employees

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

In addition to the grounds stipulated by this Code and other legislative acts, an employment contract with part-time employees may be terminated:

- 1) in the event that an employee is recruited for whom the job will be the principal one;
- 2) in the event that the part-time job has become the employee's principal one.

Article 351. Other special considerations in regulating the work of part-time employees

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Other special consideration in regulating the work of part-time employees, for certain categories of employees (including specifying jobs which are not part-time) shall be established by the Government of the Republic of Belarus.

SECTION IV

GENERAL RULES FOR REGULATING COLLECTIVE LABOUR RELATIONS

CHAPTER 33

GENERAL PROVISIONS CONCERNING SOCIAL PARTNERSHIP

Article 352. Social partnership

Social partnership is a form of cooperation between state administrative bodies, associations of employers, trade unions and other representative bodies of workers which are duly authorized in accordance with legislative acts to represent their interests, (of the subjects of social partnerships) in developing and implementing the socio-economic policy of the state, based on due regard for the interests of various strata and groups of society in social and labour affairs by means of negotiations, consultations, and with rejection of confrontation and social conflicts.

Article 353. Basic principles of social partnership

The basic principles of social partnership are:

- 1) equality of rights among the parties;
- 2) observation of legal standards;
- 3) authority to assume obligations;
- 4) voluntary assumption of obligations;
- 5) recognition of actual opportunities for making actual obligations;
- 6) obligatory implementation of agreements and responsibility for the obligations assumed;
- 7) rejection of unilateral actions which violate an agreement;
- 8) mutual information of the parties to negotiations of change in a situation.

Article 354. Representation of the interests of employees

The appropriate trade unions and other representative bodies of employees acting on the basis of local regulations may represent the interests of employees.

The interests of employees may not be represented by the chief officer of an organization or their deputies.

Article 355. Representation of the interests of the employer

The chief officer of an organisation or a person duly authorized by the organisation's founding document or its local regulations represents the interests of the employer.
(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z and 18 July 2019 N 219-Z)

Representation of the interests of employers at the national, sectoral and territorial levels is conducted by the corresponding associations of employers, or in their absence by other representatives of employers.
(as amended by the Law of the Republic of Belarus 18 July 2019 N 219-Z)

ConsultantPlus: comment.

Liability for infringement of legislation pertaining to collective labour relations has been established by Article 9.18 of the Administrative Offences Code of the Republic of Belarus.

CHAPTER 34 COLLECTIVE NEGOTIATION

Article 356. The right to conduct collective negotiations

Representative bodies of workers and of employers as parties to collective labour relations have the right to take part in collective negotiations and to initiate collective negotiations concerning concluding, amending or making addenda to an agreement or collective contract.
(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

In the event that, at the sectoral and territorial level, there are several representative bodies of workers, then each of them shall enjoy the right to conduct collective negotiations on behalf of the employees they represent.

Bodies created or financed by employers, state bodies and political parties are prohibited from conducting collective negotiations and concluding agreements or collective contracts on behalf of employees.

Persons who represent employers are prohibited from conducting collective negotiations and concluding agreements or collective contracts on behalf of employees.

Article 357. Procedure for conducting collective negotiations

Each party to collective labour relations has the right to submit a demand in writing concerning holding collective negotiations to conclude, amend or make addenda to a collective contract or agreement, and the other parties are bound to begin negotiation within seven days. Collective negotiations may begin at another time upon agreement between the parties. The parties shall create on an equal basis a commission drawn from the authorized representatives.

Representatives of the parties to collective labour relations must have documentation which confirms their authorization.

The composition of the commission, and the time limits and location for collective negotiations shall be determined by the parties to collective labour relations.

The parties do not have the right to terminate collective negotiations unilaterally, except in the circumstances specified by this Code. The employer (their association) and the corresponding state administrative bodies shall provide the information necessary to conduct collective negotiations.

Representatives of the parties to collective negotiations who disseminate information which is a state or commercial secret shall be liable in accordance with the law.

CHAPTER 35 AGREEMENTS AND COLLECTIVE CONTRACTS

Article 358. The agreement

An agreement is a regulatory act which contains the obligations of the parties in regulating social and labour relations at the level of a given occupation, sector or territory.

Agreements shall be concluded at the national (General Agreement), sectoral (tariff agreement) and local (local agreement) levels.

Article 359. Parties to an agreement

The parties to an agreement may be:

at the nationwide level, national associations of trade unions and of employers, and also the Government of the Republic of Belarus;

at the sectoral level, the corresponding trade unions (their associations) and associations of employers, and also the corresponding state administrative bodies;

at the local level, the corresponding trade unions (their associations) and the employer (their associations), and also local executive and administrative bodies.

Trade unions (their associations) do not have the right to demand that executive authorities which are not employers (or representatives of employers) conclude agreements with them.

Article 360. The content of agreements

The content of agreements shall be determined by the parties within the scope of their competencies.

The General Agreement may contain provisions pertaining to:

1) developing social partnership, facilitating conclusion of collective contracts, preventing labour disputes and strikes, and prohibition of mass dismissals;

2) basic criteria for the standard of living of employees and their families, including the minimum consumer budget, minimum wage, pensions, state benefits, and stipends;

3) wages for employees in state-funded organisations and of other organisations which are subsidized and of employees whose remuneration has been set equal to that for employees of state-funded organisations, state benefits, stipends, pensions, and compensations depending upon inflation in comparison with the established minimum;
(as amended by the Law of the Republic of Belarus dated 31 December 2009 N 114-Z and 18 July 2019 N 219-Z)

4) promoting employment;

5) occupational safety and preservation of the environment;

6) other labour and socio-economic conditions.

Tariff and local agreements shall establish social and labour guarantees for employees, depending upon the distinctive features of a sector or region, in matters of organisation, conditions remuneration and occupational safety, concluding and terminating employment contracts, effects of privatization, etc.

Article 361. The collective contract

A collective contract is a local regulation which governs labour and socio-economic relations between an employer and the employees who work for it.
(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z and 18 July 2019 N 219-Z)

Collective contracts may be concluded in organisations with any organizational or legal form and in their separately established subdivisions (on matters which are within the competency of such subdivisions).

Article 362. Correlation between legislation, collective contracts and agreements

Terms and conditions in a collective contract or agreement which are detrimental of the status of employees in comparison with legislation shall be deemed invalid.

The General Agreement is the basis for tariff and local agreements and for collective contracts.

Article 363. The parties to a collective contract

The parties to a collective contract are the employees of an organisation in the person of their representative body (Article 354) and the employer or its duly authorized representative (Article 355).

Article 364. The content of a collective contract

The content of a collective contract shall be determined by the parties in accordance with the general, tariff and local agreements (if any) within the scope of their competencies, and also with this Code in the circumstances it specifies.

A collective agreement may contain provisions pertaining to:

- 1) organisation of work and improving the efficiency of production;
- 2) standardization, forms and systems of remuneration and of other types of income for employees;
- 3) amounts of base wages (base salaries), salaries, salaries for a position, and incentive and compensatory payments;
(third paragraph of Article 364 as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)
- 4) duration of working hours and time off;
- 5) creation of healthful and safe work conditions, including providing employees with individual protective gear exceeding the established standards, improving occupational safety, guarantees of state social insurance for employees and their families, and preservation of the environment;
(as amended by the Law of the Republic of Belarus dated 6 January 2009 N 6-Z and 18 July 2019 N 219-Z)
- 6) concluding and terminating employment contracts;
- 7) sustaining employment, occupational training, advancing qualifications, retraining, and employment of dismissed employees;
(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)
- 8) regulating internal work procedures and work discipline;
- 9) construction, maintenance and allocation of housing and social and cultural facilities;
- 10) organizing health and recreation treatment and leave for employees and their family members;

11) additional guarantees for families with many children and single-parent families, and also for families caring for children with disabilities;

12) improving the living conditions of veterans, persons with disabilities and pensioners who are or were employed by the employer;

13) facilitating a higher cultural level and improved physical capacity for employees;

14) minimum required work (services) to be providing during a strike;

15) liability of the parties for failure to fulfil the collective contract;

16) guarantees of the socio-economic rights of employees in the event of de-nationalization and privatization;

17) liability of the employer for harm caused to the life and health of an employee;

18) other labour and socio-economic conditions.

A collective contract may have annexures which are an integral part of it.

Article 365. Scope of a collective contract or agreement

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

A collective agreement shall apply to the employer and to the employees on whose behalf it has been concluded.

The provisions of a collective contract concerning working hours and time off, regulation of internal work procedures, work standards, forms, systems and amounts of remuneration, periods for payment and the procedure for indexing wages, occupational safety, guarantees and compensation which are stipulated by legislation shall be applied with respect to all employees of an organization.

The force of other provisions of a collective contract shall apply to employees on whose behalf it has not been concluded, provided that they express their consent to such application in writing and that other procedures and conditions for the application of such provisions of the collective contract to those employees have not been stipulated by the collective contract.

The scope of an agreement shall be determined by the parties within the scope of their competencies.

Article 367. Term in force of a collective contract or agreement

A collective contract or agreement shall be concluded for a fixed term which has been determined by the parties, but not for less than one year nor more than three years. With consent of the parties, the term of a collective contract or agreement may be prolonged for a term of no more than three years one time only. Prolonging the term of a collective contract or agreement shall be implemented through an additional agreement annexed to it.

(first paragraph of Article 367 of the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

A collective contract or agreement enters into force from the moment of its signing or from the day established by the parties and continues in force until the conclusion of a new collective contract or agreement, unless stipulated otherwise but no more than six months after its term in force has ended.
(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

In the event of restructuring of an organization, a collective contract retains its force over the period for which it was concluded, provided that the parties have not decided otherwise.

In the event of change of ownership of the property of an organization, a collective contract shall remain in force for three months, unless stipulated otherwise by this Article.
(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

In the event of change of ownership of a state unitary enterprise in the course of privatization of the state property of such unitary enterprises and their transformation into open stock companies, the parts of a collective contract which regulated labour and socio-economic relations shall remain in force until the end of its term.
(fifth paragraph of Article 367 as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Article 368. Discussion of drafts of a collective contract or agreement

Drafts of a collective contract or agreement shall be discussed by the parties through the procedure established by them.

Drafts of a collective contract or agreement may be published in printed form.

Article 369. Signing a collective contract or agreement

A collective contract or agreement shall be signed by duly authorized representatives of the parties. Each pages of the collective contract or agreement must be signed.

Article 370. Registration of collective contracts or agreements

A collective contract signed in accordance with Article 369 of this Code shall be registered with the local executive or administrative body in the place where (registration) the employer is located.

Registration of general, tariff and local agreements shall be arranged respectively by the national state administrative body which implements state policy in the field of labour and by its local bodies.
(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Article 371. The procedure for registering a collective contract or agreement

In order to register a collective contract or agreement, the employer submits to the respective body the following documents:

- 1) an application with the request to register;
- 2) the collective contract or agreement, each page of which has been signed by the parties;

3) copies of documents which confirm the authority of the parties to sign a collective contract or agreement.

The body which is conducting registration of a collective contract or agreement shall make the corresponding entry into a special journal and impress the first page of the collective contract or agreement with a seal of registration no later than two weeks from the moment that the application has been submitted.

One copy of the registered collective contract or agreement shall remain with the body which has registered it.

Article 372. Amendments and addenda to a collective contract or agreement

Amendments and addenda to a collective contract or agreement shall be introduced through mutual agreement between the parties in accordance with the procedure established by this Code for concluding them.

Article 373. Familiarizing employees with current collective contracts or agreements

All employees, including those employed for the first time, must be familiarized by the employer with its current collective contracts and agreements.

Article 374. Information on the implementation of a collective contract or agreement

The employees on whose behalf a collective contract or agreement has been concluded shall be informed, within the time limit stipulated by them but no less than once per year, of their implementation.

The methods and procedure for such information shall be determined by the parties.

Article 375. Control over the implementation of a collective contract or agreement (as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Control of the implementation of a collective contract or agreement shall be exercised by the parties, and also by trade unions, through the procedure established by legislative acts.

Article 376. Liability of the parties for failure to fulfil the standards of this Chapter, of a collective contract or of an agreement.

Failure of the parties to fulfil the standards of this Chapter and the obligations stipulated by a collective contract or agreement shall incur liability in accordance with legislation or the collective contract or agreement.

ConsultantPlus: comment.

Concerning several issues in regulating collective labour disputes, see Decree of the President of the Republic of Belarus dated 23 July 2013 N 320.

CHAPTER 36

RESOLVING COLLECTIVE LABOUR DISPUTES

Article 377. Collective labour disputes

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

A collective labour dispute is an unsettled disagreement between the parties to collective labour relations on matters pertaining to the establishment or modification of socio-economic conditions of labour and employment, the conclusion and amendment of collective contracts and agreements, addenda to them, or their implementation or termination.

Article 378. The parties to a collective labour dispute

The parties to a collective labour dispute are the employer (employers, associations of employers) and employees in the person of their representative bodies.

Article 379. Submission and consideration of demands. Forms for considering collective labour disputes

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

In the event that disagreement on matters pertaining to the establishment or modification of socio-economic conditions of labour and employment, the conclusion and amendment of collective contracts and agreements, addenda to them, or their implementation or termination should arise between the parties to collective labour relations, demands addressed to the employer shall be approved at an assembly or conference by majority vote of the employees present (delegates to the conference). Such assembly shall be deemed authorized provided that more than half the employees are present, and for a conference, provided that no less than two thirds of the delegates are present. In the event that disagreement should arise on matters pertaining to the conclusion and amendment of a collective contract or addenda to it, the demands of the employees shall be put forth within one month (or within another period determined by the parties to the collective labour dispute) of the beginning of collective negotiations.

The demands of employees shall be set out in writing and submitted to the employer.

The employer shall consider the demands and inform the representative body of employees of its decision in writing no later than ten days from the day of receipt of the demands and within three days from the date of rejection of all or part of the demands inform the Department of State Labour Inspection of the Ministry of Labour and Social Protection of the inception of a collective labour dispute. (as amended by Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Collective labour disputes shall be considered:

- 1) by a reconciliation commission;
- 2) with participation of a mediator;
- 3) through labour arbitration.

Consideration of a collective labour dispute by a reconciliation commission is mandatory.

Article 380. The reconciliation commission

In the event that an employer rejects all or part of the demands of employees or in the event that the employer's decision is not put forth within three days, a reconciliation commission shall be created.

The reconciliation commission shall be composed of representatives of the parties to the collective labour dispute on an equal basis.

The third paragraph of Article 380 has been deleted – Law of the Republic of Belarus dated 8 January 2014 N 131-Z.

Members of a reconciliation commission may be determined in advance by a collective contract or agreement.

Article 381. Operating procedure of a reconciliation commission

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

A reconciliation commission shall conduct the necessary negotiations between representative bodies of employees (Article 354), the employer or owner or a body duly authorized by them and, within five days of the commission's creation, shall take a decision with consent of the parties concerning the collective labour dispute which has arisen, and the commission shall execute a protocol and deliver it in writing to the parties to the collective labour dispute.

Upon agreement with the decision of the reconciliation commission, the collective labour dispute shall be terminated.

In the event that agreement within the reconciliation commission is not reached, the parties to the collective labour dispute may refer it to a mediator or to labour arbitration.

Article 382. The mediator

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Consideration of a collective labour dispute with the participation of a mediator shall be conducted within five days by means of consultations (including confidential ones) by the parties with the mediator and shall be deemed completed upon acceptance by the parties to the collective labour dispute of an agreed upon decision based on the mediator's proposals.

The procedures for interacting with a mediator shall be determined by agreement between the mediator and the parties to the collective labour dispute.

State administrative bodies, other employers, and representative bodies of workers may create mediation services.

Upon agreement with the proposals of the mediator, the collective labour dispute shall be terminated.

In the event that agreement among the parties to the collective labour dispute is not reached through participation of a mediator, the parties to the collective labour dispute may agree to refer it to labour arbitration.

Article 383. Labour arbitration

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Labour arbitration is a temporarily empanelled body created by agreement between the employer (employers, representatives of employers) and employees in the person of their representative bodies for the purpose of resolving a collective labour dispute.

Agreement to create labour arbitration shall be concluded in writing.

A collective labour dispute shall be considered by labour arbitration upon failure to reach agreement concerning it in a reconciliation commission or with the participation of a mediator.

ConsultantPlus: comment.

The form for notification of labour arbitration has been established by the Decree of the Ministry of Labour and Social Protection of the Republic of Belarus dated 10 October 2013 N 101.

The employer shall, within three days of the creation of labour arbitration, inform the Department of State Labour Inspection of the Ministry of Labour and Social Protection of that fact. (as amended by Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

A collective labour dispute shall be considered by labour arbitration with the participation of a labour arbitrator (or arbitrators) selected by agreement between the parties to the collective labour dispute.

A decision concerning the collective labour dispute shall be issued by labour arbitration within fifteen days from the selection of the labour arbitrator(s) and shall be advisory for the parties, except for the decisions specified by the seventh paragraph of this Article.

A decision of labour arbitration shall be mandatory for collective labour disputes:

- 1) concerning collective contracts or agreements;
- 2) in organisations for which legislation has established limitations on the exercise of the right to strike;
- 3) in the event that the parties to the collective labour dispute have concluded an agreement concerning the mandatory nature of the agreement.

In the event of failure to fulfil a mandatory decision of labour arbitration, each of the parties to the collective bargaining agreement has the right to apply within one month to a court in order to compel implementation. A decision of labour arbitration on a collective labour dispute concerning implementation of a collective contract or agreement, and also in organizations for which legislation has established limitations on the exercise of the right to strike, may be appealed in court within ten days of its receipt.

The numerical and personal composition of labour arbitration, the procedure by which it considers collective labour disputes, the rules for adopting decisions and other matters pertaining to its activities shall be determined by agreement between the parties, unless stipulated otherwise by legislation.

The cost of considering a collective labour dispute by labour arbitration shall be determined by agreement between the parties to the collective labour dispute and the labour arbitrator(s).

Article 384. Labour arbitrators

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

A labour arbitrator is an individual person who meets the requirements established by the second through fourth paragraphs of this Article and who is included in the composition of labour arbitration created by the parties to a collective labour dispute as a disinterested party for the purpose of contributing to the resolution of a collective labour dispute.

A labour arbitrator may be a person who typically has had higher education in law or economics and experience of at least five years working as a specialist.

A labour arbiter who takes part in considering a collective labour dispute does not have the right to be a representative of any of the parties.

A labour arbiter may not be a person who:

1) has been declared legally incompetent or partially so;

2) has a criminal record;

3) has within the past three years been subject to a decision to terminate such person's empowerment as a judge in court, prosecutorial employee, member of the Investigative Committee, in bodies of internal affairs, state security, border control, as an employee of the Committee of State Control of Taxation, Customs, or other state services, as a notary, lawyer or mediator through procedures established by legislative acts on grounds of conduct incompatible with their professional activities, unless stipulated otherwise by legislative acts.

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

A labour arbitrator during consideration of a collective labour dispute shall:

1) be guided by the law;

2) be objective;

3) preserve confidentiality;

4) contribute to reaching mutual understanding and reconciliation between the parties to a collective labour dispute;

5) ensure protection in equal measure of the rights and lawful interests of the parties to a collective labour dispute;

6) take into account the interests, opinions and proposal of the parties to a collective labour dispute, and the potential for material, productive and financial support for the obligations assumed by the parties.

A labour arbiter has the right to request from the parties to a collective labour dispute the documents and information necessary to resolve that dispute.

Interference with the activities of a labour arbiter in resolving a collective labour dispute is prohibited.

Exemption from work for a labour arbiter for the period of considering a collective labour dispute shall be arranged upon request of the parties to a collective labour dispute for a total period not to exceed one calendar month during a calendar year.

During consideration of a collective labour dispute, a labour arbiter shall be provided with guarantees in accordance with Article 101 of this Code.

A list of persons who may be engaged as labour arbiters to consider a collective labour dispute is maintained by oblast and Minsk municipal executive committees with due regard for the proposals of state administrative bodies, employers, and representative bodies of workers and with the consent of the persons recommended as labour arbiters.

Article 385. Deleted

(Article 385 has been deleted – Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Article 386. Deleted

(Article 386 has been deleted – Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Article 387. Liability of the parties for failure to fulfil the mandatory obligations of labour arbitration

Persons at fault for failing to fulfil the obligations which are mandatory for the parties to a collective labour dispute shall bear liability in accordance with the law.

Article 388. Strikes

A strike is a temporary voluntary refusal of employees to perform their work duties (in full or in part) in order to resolve a collective labour dispute.

A strike may be conducted within three months of the day of failure of the parties to a collective labour dispute to reach agreement on a settlement of that collective labour dispute and, in the event that the parties have referred the matter to a mediator or (and) to labour arbitration, within three months from the day of failure of the parties to the collective labour dispute to settlement of that collective labour dispute through participation of a mediator or (and) of disagreement with the decision of labour arbitration, except for those decisions which are binding obligations of the parties.
(second paragraph of Article 388 as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

ConsultantPlus: comment.

Presenting political demands by means of a strike on the initiative of trade unions is prohibited. (second paragraph of Article 22 of Law of the Republic of Belarus dated 22 April 1992 N 1605-XII)

The law may establish limitations on exercising the right to strike to the extent necessary in the interests of national security, maintenance of social order, public health and the rights and freedoms of other persons.

Financial assistance to participants in strikes from political parties and other public associations which promote political goals, and also from foreign legal entities and individual persons, is prohibited.

Article 389. The decision to mount a strike

The decision to mount a strike shall be taken at an assembly or conference by secret ballot.

The decision shall be deemed passed in the event that no less than two thirds of the employees (delegates of a conference) present vote in favour of it

The assembly shall be deemed duly authorized in the event that at least half the employees, or for a conference at least two thirds of the delegates, are present.

Article 390. Notification of a strike

The representative bodies of employee shall inform the employer in writing of the decision to mount a strike no less than two weeks prior to its inception. The notification of conducting a strike shall indicate:

1) a list of the disagreements between the parties which are the grounds for announcing and conducting the strike;

2) the date and time of the inception of the strike, its duration, and the anticipated number of participants;

3) proposals for the minimum necessary work (services) to be performed in the organization during the strike.

After receipt of notification of a strike, the employer shall immediately report the fact to the owner or to a body duly authorized by it, to suppliers, consumers, transport organisations and to local executive and administrative bodies.

Article 391. Prohibition of forced participation in a strike or forced refusal to participate in one

Forced participation in a strike or forced refusal to participate in one is prohibited.

Article 392. Obligations of the parties during a strike

The parties to a collective labour dispute shall adopt the measures necessary during a strike at organisations to ensure observance of the law, preservation of state and private property, maintenance of social order and of minimum work (services).

The minimum necessary work (services) shall be determined by a collective contract. In the absence of a collective contract, the minimum necessary work (services) shall be determined by agreement between the parties within five days of the adoption of the decision to conduct a strike. In the event that disagreement between the parties concerning minimum work (services) should arise, that minimum shall be established by the inception of the strike by local executive and administrative bodies, whose decision shall be binding upon the parties.

Article 393. Postponing or suspending a strike

In the event of an actual threat to national security, to maintenance of order, to public health or to the rights and freedoms of other persons, and also in other circumstances specified by legislation, the President of the Republic of Belarus has the right to postpone a strike or to suspend it, but by no more than three months.

Article 394. Termination a strike

A strike shall be terminated and its participants shall appear for work on the day after:

- 1) the strike has been declared unlawful in accordance with Article 395 of this Code;
- 2) receipt in writing of the employer's accession to the demands;
- 3) a decision taken by a general assembly or conference in the manner prescribed by Article 379 of this Code;
- 4) conclusion in writing of an agreement between the parties to terminate the strike.

Article 395. Unlawful strikes

A strike or decision to mount a strike may be declared unlawful through a decision of an oblast (Minsk municipal) court in the event that the strike is being (or has been) conducted or that the decision to mount it was taken in violation of the requirements of this Code and of other laws.

An application to declare a strike or the decision to mount one unlawful shall be submitted by the employer (owner or body duly authorized by it) and (or) by a prosecutor in the event of:

- 1) violations of the requirements of this Code and of other laws, within fifteen days of receipt of information concerning such violations, except in the circumstances specified in point 2 of this Article:
- 2) failure to meet the requirements of Article 392 of this Code or in the event of an actual threat to national security, to maintenance of order, to public health or to the rights and freedoms of other person, immediately.

A decision of an oblast (Minsk municipal) court to the effect that a strike or the decision to mount one is unlawful shall be subject to immediate implementation upon its entry into legal force.

Article 396. Legal status of employees during a strike

Average wages shall not be retained by employees who are participating in a strike for the entire duration of that strike. The period of participation in a strike shall not be included in the length of service which grants the right to leave.

For those employees who refuse in writing to take part in a strike but who cannot perform their work duties because of it, wages for the entire period of the strike shall be paid in an amount no less than that established by the legislation for involuntary absence from work.

Article 397. Liability for participating in an unlawful strike

Participants in a strike which has been declared unlawful by a court may be subject to disciplinary and other liability as prescribed by law.

Article 398. Liability for obstructing the performance of work duties by employees who are not participating in a strike

Persons who obstruct employees who are not participating in a strike from the performance of their work duties shall be subject to disciplinary and administrative liability, unless their activities incur criminal liability.

Article 399. Liability for forced participation or refusal to participate in a strike

Persons who through violence or threats of violence force participation in a strike or refusal to participate in one shall be subject to criminal liability in accordance with the law.

SECTION V

LIABILITY OF EMPLOYEES AND EMPLOYERS. OVERSIGHT OF COMPLIANCE WITH LABOUR LEGISLATION. PUBLIC CONTROL OVER COMPLIANCE WITH LABOUR LEGISLATION

(as amended by Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

ConsultantPlus: comment.

Concerning enforcement by the courts of financial liability of employees for damages to the employer in the course of performing work duties, see Resolution of the Plenum of the Supreme Court of the Republic of Belarus dated 26 March 2002 N 2.

ConsultantPlus: comment.

The Regulation on Financial Responsibility of Persons from the Unranked and Command Personnel of the Bodies of Internal Affairs in the Republic of Belarus was adopted by the Council of Ministers of the Republic of Belarus on 27 August 2012 N 789.

CHAPTER 37

FINANCIAL ACCOUNTABILITY OF EMPLOYEES FOR DAMAGE CAUSED TO THE EMPLOYER IN PERFORMING WORK DUTIES

Article 400. Conditions and procedures for employees to be subject to financial accountability

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

An employee may be subject to financial accountability in the event of the following;

- 1) damage caused to the employer in performing work duties;
- 2) misconduct (action or failure to act) by an employee;
- 3) a direct causal link between the misconduct of an employee and damage to the employer;
- 4) fault of the employee in causing damage.

It determining the amount of damage only actual damage shall be taken into account, and foregone profits shall not be taken into account, except in the event that the damage were not from performance of work duties (point 6 of Article 404). A loss, deterioration or destruction of property which requires the employer to incur expense for restoration or acquisition of property or other material assets, or to make excessive payments (except for fines levied against the employer), shall be deemed actual damage.

(second paragraph of Article 400 as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Behaviour (action or failure to act) by the employees in which they fail to perform or inadequately perform duties imposed on them by this Code, other legislative acts pertaining to labour, a collective contract, other local regulations, or an employment contract.
(third paragraph of Article 400 as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

The burden of proof of the cause for damage, and also the presence of other conditions for financial liability, shall be upon the employer.
(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Employees who bear full financial liability on the grounds of points 1, 2, 4 and 6 of Article 404 of this Code shall be required to prove that they were not at fault for the damage caused.
(as amended by the Law of the Republic of Belarus dated 20 July 2007 N 272-Z and 18 July 2019 N 291-Z)

Placing liability on an employee for damage which falls under the category of normal industrial and commercial risk (experimental production, introduction of new technology, etc.) is impermissible.

The employer shall create the necessary conditions for employees to work normally and preserve the value of items entrusted to them.

Article 410. Voluntary reimbursement from employees who have caused damage to their employer

An employee who has caused damage may voluntarily make reimbursement for it in full or in part.

With the consent of the employer, the employee may reimburse damage caused by providing property of equal value or repairing the damage.

Article 402. Amounts of financial liability for employees

In general, employees bear full financial liability for damage caused through their fault to an employer.

This Code or collective contracts and agreements may establish limitations on the financial liability of employees for damage caused through the fault to an employer, except in the circumstances specified in Article 404 of this Code.

Article 403. Instances of limited financial liability

Limited financial liability shall be borne:

1) by employees in the amount of the damage caused through their fault, but no more than their average monthly wages, for damage or destruction through negligence of materials, partially finished goods, products (output), including during their manufacture, and also for damage or destruction through negligence of tools, measuring devices, special clothing and other items issued by the employer to employees for their use in the work process;

2) by chief officers of organisations, their deputies, and chief officers of structural subdivisions and their deputies for damage caused through their fault, but no more than three times their average monthly wages, provided that the damages were caused by improper accounting for and storage of

materials or items of monetary value, by failure to take the necessary steps to prevent downtime or by release of low-quality products.

Article 404. Instances of full financial liability

ConsultantPlus: comment.

A contract concluded with an employees must stipulate full financial liability for damages caused to an employer through fault of the employee which result in excessive expenditures (except in the event of errors in calculation), in improper accounting for and storage of items of material and monetary value, in their theft or in their destruction. (sup-point 2.8 of point 2 of Decree of the President of the Republic of Belarus dated 26 July 1999 N 29)

Employees shall bear full financial liability in the amount of the damages caused through their fault in the event that:

1) a contract in writing in accordance with Article 405 of this Code has been concluded between an employee and an employer concerning the employee's assumption of full financial liability for failure to ensure the security of property or other material assets which have been put into the employee's care for storage or for other purposes;

2) property or other material assets were received by an employee through a power of attorney or other document valid for a single use;

3) damages were caused by criminal misconduct. Release of an employee from criminal liability on grounds of non-rehabilitation does not relieve that employee from financial liability;

ConsultantPlus: comment.

Imposing on an employee the obligation to reimburse the employer in full for damages caused while the employee was under the influence of alcohol or narcotics or otherwise intoxicated requires that the employer prove in court both the fact of damages caused and the fact that the employee was under the influence of alcohol or narcotics or otherwise intoxicated. (point 21 of the Resolution of the Plenum of the Supreme Court of the Republic of Belarus dated 26 march 2002 N 2)

4) damages were caused while the employee was under the influence of alcohol or narcotics or otherwise intoxicated;

5) damages were caused by a shortage, deliberate destruction or deliberate damage to materials, partially finished goods or products (output)), including during their manufacture, and also to tools, measuring devices, special clothing and other items issued by the employer to employees for their use in the work process;

6) damages (including forgone revenues) not caused in the course of performing work duties.

Article 405. Contracts in writing concerning full financial liability

Contracts in writing concerning full financial liability may be concluded by an employer with employees above eighteen years of age who occupy an employment capacity or perform jobs directly connected with storage, processing, sales (circulation), transport or use in the production process of material assets put into their care.

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

A non-exhaustive list of such employment capacities and jobs, and also a sample contract concerning full financial liability shall be approved by the Government of the Republic of Belarus.
(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

With due regard for the non-exhaustive list referred to in the second paragraph of this Article, the employer has the right on the basis of a collective contract, or in the absence of such contract unilaterally, to approve a list of the employment capacities and jobs occupied or performed by employees with whom the employer may conclude contracts in writing concerning full individual financial liability.

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z and 18 July 2019 N 219-Z)

Article 406. Collective (team) financial liability

ConsultantPlus: comment.

The grounds for holding members of a collective (team) financially liable are financial damages caused by shortages which are confirmed by inventory records, and also damage to material assets put into the care of a collective (team). (point 27 of Resolution of the Plenum of the Supreme Court of the Republic of Belarus dated 26 March 2002 N 2)

In the event that employees jointly perform particular types of work connected with the storage, processing, sales (circulation), transport or use in the production process of material assets put into their care and that it is not possible to identify the financial liability of each employee and conclude a contract with each concerning full financial liability, then collective (team) financial liability may be applied.

The need to apply collective (team) financial liability shall be determined by the employer in accordance with the first paragraph of this Article.

A contract in writing concerning collective (team) financial liability shall be concluded between an employer and all the members of the collective (team).

A non-exhaustive list of jobs, to which collective (team) financial liability may be applied and also a sample contract concerning collective (team) financial liability shall be approved by the Government of the Republic of Belarus or by a body duly authorized by it.

With due regard for the non-exhaustive list referred to in the fourth paragraph of this Article, the employer has the right on the basis of a collective contract, or in the absence of such contract unilaterally, to approve a list of the employment capacities and jobs occupied or performed by employees with whom the employer may conclude contracts in writing concerning full collective (team) financial liability.

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Article 407. Determining the amount of damages caused

Determining the amount of damages caused shall be conducted through the procedure prescribed by law.

Article 408. The procedure for reimbursing damages caused to an employer

ConsultantPlus: comment.

As of 1 January 2015, the chief officers of organisations have the right, by order of the employer, to withhold from an employee's wages for damages caused to the employer through fault of the employee in an amount up to three of that employee's average monthly wages. (sup-point 3.6 of point 3 of Decree of the President of the Republic of Belarus dated 15 December 2014 N 5)

Reimbursement by an employee in an amount up to three of that employee's average monthly wages shall be arranged, by order of the employer, through withholdings from the wages of the employee.

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

The order of the employer must be issued no later than two weeks from the day of discovery of the damages caused by the employee, and such order must be put into effect no sooner than 10 days from the day on which the employee was informed of it.

Prior to the issuance of an employer's order to make withholdings from wages, an explanation in writing must be requested from the employee.

ConsultantPlus: comment.

Disputes with employers by employees who object to withholdings applied by employers for reimbursement of damages or who object to the amount of such withholdings are to be considered in court after observing the procedures for consideration out of court, or in the event that no labour dispute commission has been created or the commission has not examined their application within ten days (this applies also to employees who are not members of a trade union if they have not applied to a labour dispute commission). (point 6 of the Resolution of the Plenum of the Supreme Court of the Republic of Belarus dated 26 March 2002 N 2)

The fourth paragraph of Article 408 has been deleted – Law of the Republic of Belarus dated 18 July 2019 N 219-Z.

In other circumstances, reimbursement for damages shall be arranged through judicial proceedings.

In the event that an employer has made withholdings from the wages of an employee in contravention of the procedures established in the first, second, third and fourth paragraph of this Article, then the body for considering labour disputes shall accept the plea of the employee for return of the unlawfully withheld amounts.

Recovery of financial damages from the chief officers of organisations and their deputies shall be considered in court upon the application by the owner, by a body duly authorized by the owner or by a prosecutor.

Reimbursement of damages shall proceed regardless of whether the employee is subject to disciplinary, administrative or criminal liability for the actions (lack of actions) which caused damages to the employer.

Article 409. Assessing specific circumstances in imposing financial liability

ConsultantPlus: comment.

A court may consider circumstances which have prevented an employee from adequately performing the tasks assigned to them: lack of normal storage conditions, improper organisation of work, etc. In that case, the court must establish whether the employee took all the steps in their power to prevent

damages. (point 30 of Resolution of the Plenum of the Supreme Court of the Republic of Belarus dated 26 March 2002 N 2)

A court may reduce the amount of damages to be reimbursed by taking into account the degree of fault and the specific circumstances and financial situation of an employee.

CHAPTER 38. DELETED

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Article 410. Deleted

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CHAPTER 39

OVERSIGHT OF COMPLIANCE WITH LABOUR LEGISLATION. PUBLIC CONTROL OVER COMPLIANCE WITH LABOUR LEGISLATION

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Article 462. Oversight of compliance with labour legislation

(as amended by the Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Oversight of compliance with labour legislation shall be conducted by bodies duly authorized to conduct such oversight in the manner prescribed by law.

Article 463. Public control over compliance with labour legislation

ConsultantPlus: comment.

In organisations where no trade union exists, public control over compliance with labour legislation may be conducted by duly authorized persons. (point 3 of the Instruction approved by Decree of the Ministry of Labour and Social Protection dated 28 November 2008 N 179)

ConsultantPlus: comment.

In organisations where no trade union exists, public control over compliance with occupational safety legislation may be conducted by duly authorized persons. (point 3 of the Instructions “On the procedure for conducting public control of compliance with occupational safety legislation by persons authorized for the occupational safety of the employees of an organisation” approved by Decree of the Ministry of Labour and Social Protection dated 28 November 2008 N 179)

Public control over compliance with labour legislation shall be conducted by trade unions in the manner prescribed by law.

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

In exercising control over compliance with labour legislation, trade unions have the right to request and receive from the employer and state bodies in the manner prescribed by law such information as is necessary for that purpose.

(as amended by the Law of the Republic of Belarus dated 8 January 2014 N 131-Z)

Article 464. Deleted

(Article 464 has been deleted – Law of the Republic of Belarus dated 18 July 2019 N 219-Z)

Article 465. Liability for violation of labour legislation

Legal entities and individual persons at fault for violation of labour legislation shall bear disciplinary, administrative, criminal and other liability as prescribed by law.

SECTION VI CONCLUDING PROVISIONS

Article 466. Entry into force of this Code

This Code shall enter into force as of 1 January 2000.

Article 467. No longer in force

(Article 467 is no longer in force – Law of the Republic of Belarus dated 13 November 2017 N 68-Z)

Article 468. Rendering legislative acts consistent with this Code

The Government of the Republic of Belarus within six months of the entry into force of this Code:

prepare and introduce in the House of Representatives of the National Assembly of the Republic of Belarus, through the established procedure, proposals to render legislative acts of the Republic of Belarus consistent with this Code;

render the decisions of the Government of the Republic of Belarus consistent with this Code;

ensure revision and annulment by national state administrative bodies and other executive bodies of their regulations which contravene this Code;

enact such other decisions as ensure the implementation of this Code.

President of the Republic of Belarus

A. Lukashenko