

Business Law

Fundamentals of Labour Legislation



Labor Law, labor relations

- **Labor Law** is a body of rules that regulates labor relations arising in the process of citizens' exercise of their constitutional right to freedom of labor.
- **Labor relations** are relations arising between employer and employee on the basis of labor contracts
 - Employee is an individual who performs work under a labor contract
 - Employer is an individual or legal entity with which an employee has labour relations.

Sources of Labor Law

1. Constitution of RK.
2. Labor Code of the Republic of Kazakhstan of November 23, 2015.

Rights and Obligations of Employees

Rights:

1. to enter into, amend, and dissolve labor contracts with the employer
2. to equal pay for equal work without any discrimination whatsoever
3. to labor conditions that comply with safety and hygiene requirements
4. to rest
5. to compensation of health and property damage connected with work performance
6. to increase his/her professional qualifications.

Obligations:

1. perform his/her work duties in good faith
2. observe labor discipline
3. not to damage the employer's property
4. comply with the requirements of labor protection rules and fire safety rules
5. not to disclose the entrusted information that constitutes an official, commercial, or other secret protected by law
6. report situations that jeopardize human life and health and the security of the property of the employer and employees.

Responsibilities of Employers

- maintain labor conditions for the employees in accordance with the labor legislation;
- supply workers with the means and materials necessary for performance of their work duties;
- pay in full and on time wages and other payments;
- compensate employees for damage;
- suspend operations if continuance of the same would jeopardize employees' life or health;
- warn employees of harmful and hazardous labor conditions and the possibility of occupational illness.



Labor Contracts

- Labor contracts may be concluded in the form of:
 - Individual employment agreements (IEA);
 - Collective Agreements.
- Labor contracts may be concluded:
 - for an indefinite term;
 - for a definite term;
 - for the time of performing a particular job or for the time of replacing a temporarily absent employee.

Conditions of Labor Contract

- At least 16 years old
- Exceptions (possible with the consent of the parents):
 - If persons have obtained a secondary education or left studies and have reached 15 years of age;
 - If persons have reached 14 years of age and the work does not disrupt the educational process (performed during time free from studies);
 - The consent of parents (guardian, curator) is given in writing (a statement); in doing so, the parents (guardian, curator) sign the IEA alongside the minor.
- Probation period - not longer than three months.



Grounds for Termination and Dissolution of a Labor Contract

Termination:

- upon the expiration of the term;
- due to circumstances beyond the parties' control.

Dissolution:

- by agreement between the parties;
 - The basis for dissolution is the written consent of the employee and employer.
- on the initiative of one of the parties;
 - The term provided for one party to give warning to the other may not be shorter than **one month** prior to the dissolution of the individual employment agreement.



Work Time

- The time during which an employee is obligated to perform work duties in accordance with the provisions of the IEA
- The standard duration of work time must not exceed **40 hours per week**
- Reduced work time:
 - age 14 - 16 no more than **24 hours** per week;
 - age 16 – 18 no more than **36 hours** per week;
 - heavy physical labor and work in harmful conditions, no more than **36 hours** per week;
- Rule: A five-day workweek with two days off.
 - Exception: In organizations where a five-day workweek is not feasible due to the nature of production and the labor conditions, a six-day workweek with one day off is established.

Rest time



Rest Time

- Five-day workweek - two days off, six-day workweek - one day off.
- Break for rest and meals
 - In the course of daily work, the employee must be provided with a break for rest and meals of an aggregate duration of no less than one hour.
 - Not included in work time.
- Special breaks
 - In order to warm up and rest.
 - Included in work time.
- An employee's duration of daily rest may not be less than 12 hours.

Leaves

- **Annual paid leave** – at least 24 calendar days
- **Pregnancy and maternity leave**
 - 70 calendar days prior to childbirth and 56 (or 70 in the case of childbirth complications or birth of multiple children) calendar days after childbirth.
 - Parental leave (any of the two parents) until the child reaches 36 months of age.
- **Academic leave**
 - paid or unpaid leave for the period when examinations are given, or when preparing and defending a degree project (thesis) or taking pre-graduation examinations.



Wages

- An employer must compensate the employee's labor
 - depending on the quantity, quality, and difficulty of the work done.
 - systems of bonuses and rewards for year-end work results and other forms of material incentives may be implemented
- Wage rates may not be lower than the minimum monthly wage as established by the legislation of Kazakhstan;
- Overtime work is compensated at a rate of at least time-and-a-half;
 - Work during holidays and days off at a rate of at least double-time;
 - Every hour of nighttime work is paid at a rate of at least time-and-a-half.
 - Compensation for work during holidays and days off may be substituted by an additional day of rest if the employee so wishes.
- Wages are disbursed no less frequently than once per month.

Employee Incentive and Punitive Measures

- Incentives – to reward employees' successful performance.
- Disciplinary action against employees for breaches of labor discipline:
 - 1) reproof;
 - 2) reprimand;
 - 3) severe reprimand;
 - 4) dissolution of the IEA.
- No other disciplinary action is permitted. Before disciplinary action is taken, a written explanation must be requested and obtained.
- Disciplinary action may be imposed no later than one month after the offense was discovered, and no later than six months after the date when the offense was committed.

Article 52. Grounds for termination of the IEA on the employer's initiative

- Liquidation (termination of the activity) of the employer
- Staff reduction
- Insufficient qualification
- Health reasons
- Unsatisfactory result of work during probation
- Absence at work place without a valid excuse for more than 3 consecutive hours in one working day
- Appearance at work in a condition of intoxication and/or taking during a working day of the substances causing intoxication
- Violation by the employee of the rules of occupational health, fire rules, traffic and transportation rules
- Stealing

Article 52. Grounds for termination of the IEA on the employer's initiative

- Loss of trust in the employee by the employer
- Commitment by the employee who performs any education functions of an amoral offence
- Disclosure of any information which constitutes the state secret and other legally protected secrets
- Repeated failure by the employee to perform his/her duties
- Submission of misleading documents or information when concluding the employment agreement
- Failure by the employee to appear at work for more than 2 months in a row due to temporary sickness or incapacity, except for maternity leave
- Pension age.

Article 52. Grounds for termination of the IEA on the employer's initiative

- The job (position) of the employee who has lost the ability to work due to injury at work or occupational disease shall be preserved until he/she recovers his/her ability to work, or disability is established

Article 52. Grounds for termination of the IEA on the employer's initiative

For certain categories of employees this Code provides for additional grounds for termination of employment agreement on the initiative of the employer.