



## **Special Legal Alert for October 2017**

### **Issue # 10/SLA:**

What's New in Migration and  
Employment Law?

## Dear friends,

In this Special Legal Alert, we would like to discuss planned amendments to be introduced into various migration and employment laws.

### Migration Law:

Government Resolution № 602 dated 29 September 2017 approves the Kazakhstan Migration Concept ("Concept") for 2017-2021.

The Concept focuses on short-term and long-term migration and serves as the basis for a new national migration policy until 2021, whereby work permit quotas will not only be based on employer requirements, but also regional socio-economic development needs, regional migration and oralman acceptance quotas.

- **Short-term migration** covers foreign nationals employed in specific sectors of economy or for specific priority projects
- **Long-term migration** covers qualified foreign nationals hired as part of long-term innovative projects to improve entrepreneurial spirit and develop human resources

It also amends the migration law, so that:

- Low-skilled foreign nationals will be hired based on temporary work permits valid from one month up to one year
- sector limits will be introduced on hiring older foreign nationals
- charges will depend on the sector of economy in which the foreign national will be working
- qualified foreign nationals will be hired for a specific position or to realise specific projects for up to one year, and will be given the opportunity to extend their permits
- the mechanism for issuing certificates of compliance to obtain a work permit for self-employed activities will be improved. To this end, a specialists rating list will be drafted, with the system used to grade overseas specialists in the USA and Canada being adapted for Kazakhstan
- measures will be taken to simplify entrepreneurial activities for business migrants in Kazakhstan

The procedure for issuing work permits will be fully automated to ensure transparency and keeping record of qualified employees. The assumption is that documents may only be filed electronically.

Furthermore, the Concept will improve statistical accounting and reporting systems, and awareness of migration processes. It proposes:

- organising integrated international statistical accounting for all categories of foreign nationals from the EEU
- concluding partnership agreements with countries of origin in relation to the employment of unqualified foreign nationals, and creating an integrated register for the same showing sectors and areas of employment and types of work performed
- keeping record of qualified overseas specialists, showing their professions, sectors and employers, and the type of work they perform.

The Concept proposes the following action plan for the above measures:

- the corresponding legislative amendments will be devised in January 2018
- amendments will be introduced into the relevant legislative acts in December 2018

Further, according to the action plan, the Ministry of Employment and Social Welfare will monitor salaries, carry out random reviews or other forms of control, and study the legality and the reasons behind employers' decision to hire foreign nationals. It will also monitor social tension on a monthly basis and draft a map of employment risks.

### Employment Law:

Amendments have also been planned to be introduced into the Labour Code with respect to secondments.

The Ministry of Employment and Social Welfare is planning to ban secondments and other types of contracted employment, except for short-term business trips from head office to subsidiaries and vice versa. At the same time, employment agreements should identify business trip conditions such as the period and scope of work. Salaries should be paid by the organisation where the person is employed.

According to the Ministry of Employment and Social Welfare, the reasons behind the above ban on secondments and other types of contracted employment include low salaries, relative lack of collective agreements due to the absence of social packages and employer inability to ensure safe working conditions.

However, the proposal to ban secondments and other types of contracted employment is currently being considered by the Ministry of Employment and Social

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Welfare. The next step would be for it to be reviewed by a national trilateral commission.

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