



## Legal Alert

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## Draft new Kazakhstan Labour Code

A new Draft Labour Code is currently being developed as part of the “100 Specific Steps to implementing the 5 Institutional Reforms of President Nursultan Nazarbayev” National Plan (step 83).

The aim of the new Draft Labour Code is to create a mechanism covering collective and contractual administration to ensure an effective balance between social welfare and economic performance, and best combine the state and contractual administration of employment relations.

The Draft Labour Code covers:

- employee hiring rules (an employer's entitlement to renew fixed-term contracts for a period of no less than 12 months or terminate employment contracts during probationary periods)
- employee relocation (the liberalisation of employee relocation conditions in the event of operational need and business trips)
- employment agreement termination (the right to terminate employment agreements for economic reasons)
- remuneration (the creation of changeable minimum state guarantees, overtime and downtime rates)
- employment rates and qualification systems (removal of state guarantees, employer entitlement to the self-introduction of employment standards and the development of professional standards)
- employee recreation (accreditation of organisations rating working conditions, calculation of the number of additional days of paid leave according to the rating of working conditions)
- monitoring of employment legislation compliance (closure of the Institute of Public Inspectors and the transfer of its functions to the Health and Occupational Safety Committee)

The changes were introduced to create a model of employment relations that minimises state regulation and transitions to the principle of self-regulation between employers and employees. In turn, the government will intensify work safety requirements and the state control of compliance with employment legislation.

**The draft is in the development stage.**

## Minister of Energy Order No. 250 dated 31 March 2015 *On the Approval of Rules for trading in Environmental Emissions Quotas and Commitments to reduce Environmental Emissions*

The rules allow users of natural resources to trade quotas and commitments to reduce environmental emissions to comply with environmental legislation and avoid exceeding existing emission limits and reduction commitments within a fixed period of time. To do so, one user can acquire whatever part of an emission quota or reduction commitment is it requires from another user that has excess emission quotas or reduction commitments available.

Emission quota and reduction commitment trading transactions are differentiated as follows:

- for emissions and pollutant discharges
- for the disposal of industrial and consumer waste
- for the dumping and storage of sulphur in open fields

The rules also define the conditions for trading in emission quotas and reduction commitments, and the legal procedures to make transactions.

**The rules were enacted on 16 June 2015.**

## ***Law No. 316-V dated 8 June 2015 On Special Protective, Antidumping and Countervailing Measures in Relation to Third Countries***

The law was introduced to bring national legislation into line with World Trade Organisation agreements and treaties forming the legal framework of the Eurasian Economic Union and to protect Kazakhstan's economic interests in relations arising following the introduction of special protective, antidumping and countervailing measures on products originating in third countries and intended for supply to Kazakhstan.

The law defines:

- the competence of the authorised body; the procedure for interacting with other interested state bodies, organisations and with the authorities responsible for examining the application of special protective, antidumping and countervailing measures
- the general principles behind the introduction and application of special security measures (including provisional special duties), and validity periods
- the general principles behind the introduction and application of anti-dumping measures (including provisional anti-dumping duties and exporter pricing commitments), periods of validity and the establishment of circumvention of anti-dumping measures
- the general principles behind the introduction and application of countervailing measures (including provisional countervailing duties and the assumption of voluntary commitments by subsidising third countries), periods of validity and the establishment of circumvention of countervailing measures
- the procedure, reasons, conditions and characteristics of conducting investigations.

Amendments have been made to a number of legislative acts to ensure legislation complies with the new law.

**The Law entered into force on 11 July 2015.**

## ***Minister of Energy Order No. 100 dated 16 February 2015 On the Approval of Rules for conducting State Environmental Reviews***

The rules define the procedure for organising environmental protection activities and interaction between the authorised and other bodies conducting state environmental reviews, and establish requirements for materials submitted for state environmental reviews.

This version of the Rules does not include “draft contracts for subsoil use operations” and “documentation for the use of technology and facilities, excluding vehicles and equipment, including vehicles and equipment transferred (imported) into Kazakhstan” in the list of objects subject to mandatory state environmental review.

A change has also been made to the list of materials to be submitted for state environmental review, for example a state environmental review application.

The new version of the Rules has removed review timing and conditions.

**The rules were enacted on 19 June 2015.**

## ***Minister of Energy Order No. 244 dated 30 March 2015 On the Approval of Model Hydrocarbon, Uranium and Coal Exploration Contracts***

The order approves model contracts regulating contractual relations in the exploration of hydrocarbons, uranium and coal between Kazakhstan and subsoil users. The contracts are in place for no more than 6 years, but may be extended in the event of a discovery of a deposit. The contracts establish territory requirements of no more than ten blocks (each block equal to one minute in the geographic coordinate system).

The contracts clearly stipulate:

- subsoil user obligations to (1) pay social development costs in the region, (2) meet minimum monthly costs, (3) perform the minimum types of work, (4) develop and approve exploration work after a positive conclusion from a state environmental review and submit reports to the authorised body for each item, and pay signature bonuses
- contractual taxation
- subsoil user rights, including exclusive subsoil user rights to enter into production contracts in the event of a commercial discovery, as well as ownership of geological information
- contract termination conditions
- other clauses

**The order entered into force on 31 May 2015.**

### **Minister of Health and Social Development Order No. 176 dated 30 March 2015 *On the Approval of Rules for allocating and paying Temporary Disability Benefits***

The rules define the procedure for employers to allocate and pay temporary disability benefits based on certificates of temporary disability and the conditions specified in them, and also in accordance with the Labour Code. In the event of temporary disability as a result of an occupational injury or illness, benefits are granted if an industrial accident report is in place.

The rules also stipulate a list of conditions for which benefits are not paid (in strict accordance with the Labour Code).

The rules also stipulated the procedure and deadlines for submitting temporary disability certificates to employers.

**The rules entered into force on 29 June 2015.**

### **Minister of Justice Order No. 25 dated 20 January 2015 *On the Approval of Rules for the Legal Review of Subsoil Use Contracts***

The rules determine the procedure for conducting legal reviews of subsoil use contracts to check for compliance with Kazakhstan legislation, ratified international treaties, and model subsoil use contracts approved by the competent authority and the Law *On the Subsoil and Subsoil Use*.

Legal reviews of subsoil use contracts are the responsibility of the Ministry of Justice and should be carried out within 30 calendar days from the date a full package of documentation is received. For common commercial minerals, legal reviews are conducted either by the local regional justice authorities or the authorities in cities of national importance or Astana.

The rules also define:

- the list of documents to be submitted to the Ministry of Justice or the relevant justice authorities for a legal review of draft exploration, production and combined exploration and production contracts
- the grounds for a refusal to conduct a legal review of a draft contract

A positive or negative opinion is issued upon completion of a legal review.

**The rules entered into force on 29 June 2015.**

## **Government Resolution No. 459 dated 18 June 2015 *On the Repeal of Certain Government Resolutions***

The Resolution invalidates a number of legislative acts, the most significant of which are Government Resolution No. 852 dated 16 September 2008 *On the Approval of Model Charters for Small, Medium and Large Business Entities*.

With this in mind, new model charter forms were approved according to Order of the Minister of Justice No. 106 dated 24 February 2015 *On the Approval of Model Charters for Small, Medium and Large Business Entities*.

New model charters were approved for:

- Joint Stock Companies
- Limited Liability Partnerships
- Additional Liability Partnerships
- Limited Partnerships
- General Partnerships
- Production Cooperatives

**The Decree entered into force on 27 June 2015.**

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