



Legal Alert

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Employment and Migration

Government Resolution No. 639 dated 11 June 2014 On Amendments and Additions to Resolution of the Government of the Republic of Kazakhstan No. 148 dated 21 January 2012 "On the Approval of Rules for Immigrants to enter and stay in the Republic of Kazakhstan, and depart from the Republic of Kazakhstan, and the Rules for the Implementation of Migration Control, and recording Foreign Nationals and Stateless Persons illegally crossing the State Border of the Republic of Kazakhstan, illegally residing in the Republic of Kazakhstan, and Persons forbidden from entering the Republic of Kazakhstan"

A procedure has been added to the Rules allowing the following countries' nationals to enter, exit from and reside in the Republic of Kazakhstan between 15 July 2014 and 15 July 2015 visa-free if their period of stay does not exceed 15 calendar days from the moment they cross the state border:

1. The USA
2. The United Kingdom
3. Germany
4. France
5. Italy
6. Malaysia
7. The Netherlands
8. The United Arab Emirates
9. Korea
10. Japan

The authorities may extend the initial 15-day period and issue a 30-day business visa after receipt of an application.

The Ministry of Foreign Affairs, after receiving an application from the investment authorities to confirm the above nationals' investor status may issue a 90-day single-entry "investor" visa or a 3-year multi-entry visa.

The Resolution entered into force on 11 June 2014 and is valid until 15 July 2015.

Miscellaneous

Presidential Decree No. 841 dated 18 June 2014 On a Concept for the Further Modernisation of the Pension System of the Republic of Kazakhstan until 2030

The concept was set out in the document **Kazakhstan - 2050 - a new policy for an established state** and in response to **the President's instructions in his 7 June 2013 pension reform address to the people of Kazakhstan.**

It defines the main pension implementation priorities and mechanisms until 2030 and is based on an assessment of the experience of implementing pension reforms in Kazakhstan and global pension system developments.

The need to modernise the pension system is linked to:

1. a reduction in the size of fixed pensions and the need to further diversify retirement benefit sources
2. long-term demographic trends and cyclical economic development
3. the need to further improve the allocation of responsibility for providing pensions between the state, employer and employee

The concept should modernise the pension system to ensure that pensions guarantee a decent standard of living during retirement.

The concept's objectives are to:

1. ensure financial stability and transparency in a pension system that guarantees the execution of social obligations to its participants
2. increase pension system coverage in both its obligatory and voluntary components
3. diversify income sources at retirement age (public, private, professional, cumulative and savings)
4. ensure accessible and quality retirement services
5. increase the transparency of pension asset management

To achieve these objectives:

1. the mechanism for allocating state basic pensions will be improved at the lowest level to reduce poverty among pensioners and encourage pension system participation
2. the savings component will be retained and an additional savings component introduced at the compulsory level - a 5% employer contribution on behalf of employees
3. a further third level will be developed - voluntary employee and/or employer contributions

The Decree entered into force on 18 June 2014.

Law No. 210-V dated 18 June 2014 On the Introduction of Amendments and Additions to certain Legislative Acts of the Republic of Kazakhstan governing the State Regulation of the Production and Turnover of Ethyl Alcohol and Alcoholic Beverages

The law aims to reduce alcohol consumption by restricting access to alcohol products, improving state control of the production and turnover of ethyl alcohol and alcoholic beverages.

Changes and additions have been made to, among others:

1. The Administrative Offences Code
2. The Tax Code
3. The Public Health and Health Care System Code
4. The Law On the State Regulation of the Production and Turnover of Ethyl Alcohol and Alcohol Products

Amendments to the Administrative Offences Code included changes to the fines for violating:

1. Legislation on the state regulation of the production and turnover of

ethyl alcohol and alcoholic beverages

2. Legislation on the retail sale of alcoholic beverages
3. The labelling (relabeling) of alcoholic beverages, except beer and wine materials, inventory stamps and tobacco excise duty stamps

According to the tax law changes and additions, anyone selling alcoholic beverages should acquire an annual license fee by 20 January for 100 times the MCI for retail distributors and 200 times the MCI for wholesale distributors.

In turn, according to amendments to the Public Health Code, alcohol may not be sold retail:

1. to persons under the age of 21
2. except in restaurants, bars and cafes
3. between 11:00 p.m. and 08:00 a.m. the next day
4. if ethyl alcohol content exceeds 30%, between 9 p.m. and 12:00 p.m. the next day.

In addition, the Law on the State Regulation of the Production and Turnover of Ethyl Alcohol and Alcohol Products defines the conditions for handling ethyl alcohol and alcohol products. For example, it will be forbidden to store and sell alcoholic beverages without a device to identify inventory stamp security elements, i.e. to allow consumers to determine the authenticity of inventory stamps.

The law enters into force on 12 July 2014, except for paragraphs 4 and 5 of subpoint 1), paragraphs 30 - 37 of subpoint 2), paragraphs 2, 3, 4 and 5 of subpoint 4) of point 1, point 2, paragraphs 5 and 6 of subpoint 2), paragraphs 14 and 15 of subpoint 6) and paragraph 16 of subpoint 7) of point 4 of article 1, which entered into force on 1 January 2015; paragraph 13 of subpoint 2) of point 1, paragraph 10 of subpoint 1), paragraphs 2 and 3 of subpoint 3), paragraphs 2 and 3 of subpoint 4), paragraphs 5, 6 and 7 of subpoint 6) and paragraph 17 of subpoint 7) of point 4 of article 1 which entered into force on 1 January 2016.

At the time of publication of this Legal Alert, the law has not yet entered into force.

Law No. 206-V dated 10 June 2014 On the Introduction of Amendments and Additions to Certain Legislative Acts of the Republic of Kazakhstan regarding Efforts to counteract the Legalisation (Laundering) of Crime Proceeds and the Financing of Terrorism

The above law expands the list of entities subject financial monitoring to cover an additional three types of entity:

- 1) accounting organisations and professional accountants
- 2) microfinance institutions
- 3) non-bank electronic money operators

The changes also apply to the procedure to improve approaches to preventing the legalisation of proceeds from crime and financing terrorism. Thus, an outright ban has been placed on setting up and operating shell banks and having correspondent relations with them, and also on opening

anonymous bank accounts or bank accounts in fictitious names. In addition, the law makes it a requirement to carry out due diligence on beneficial owners.

The law also covers liability for offences related to manipulating the securities market and the illegal use of insider information. Furthermore, the conversion or transfer of property considered the proceeds of crime have been criminalised, while criminal proceeds will be confiscated.

The law entered into force on 24 June 2014, except for subpoints 2) and 5) of point 5, subpoint 5) of point 13, points 23 and 26, paragraphs 4 and 6 of subpoint 3), subpoints 6) and 7), paragraphs 2-25, 33-40 of subpoint 8), subpoints 10) and 13), paragraphs 3-10, 14-17, 19 and 20 of subpoint 14), paragraphs 2 and 3 of subpoint 15), paragraph 5 of subpoint 16), subpoint 17) paragraph 11 of subpoint 21) of point 29 and point 32 of article 1, which enter into force on 14 December 2014

Paragraphs 2 and 4 of subpoint 3) of point 13 of article 1 of the law enter into force on 1 July 2014.

Paragraph 3 of subpoint 3) of point 13 of article 1 of the law enters into force from 1 January 2015.

Government Resolution No. 518 dated 21 May 2014 On the Approval of Entry and Registration Rules for Participants and (or) Employees involved in International Specialised Exhibitions in the Republic of Kazakhstan

The rules determine the procedure for participants in and (or) employees of international specialised exhibitions held in Kazakhstan ("**Exhibitions**") to enter the country and register for exhibitions.

Exhibition organisers are responsible for issuing identification cards by placing identification card forms on the Exhibition organiser's official website. Exhibition participants and (or) their employees fill out identification cards according to the rules and send scanned copies to the control centre official email address at least two months prior to their arrival in Kazakhstan.

Exhibition participants and (or) their employees who are citizens of countries with official Kazakhstan representations may enter Kazakhstan through state border crossing points provided they have valid visas and travel documents, and if no restrictions established by Kazakhstan law regarding them are in place.

Exhibition participants and (or) their employees traveling to Kazakhstan on a visa but without accreditation cards may obtain accreditation cards for the duration of the visa at the control centre. Exhibition participants and (or) employees arriving from countries with which Kazakhstan has a visa-free entry treaty in place do not require an accreditation card to enter the country, and may apply for one at the control centre during their stay.

In the cases stipulated by point 10 of the rules, Exhibition participants and (or) employees entering Kazakhstan without visas should do so through border checkpoints with accreditation cards and documents, provided no restrictions have been placed on their entry into Kazakhstan.

The Resolution enters into force on 7 June 2014 and will remain in force until 2 December 2017.

Law No. 207-V dated 10 June 2014 On the “Innovative Technology Park” Innovation Cluster

The law defines the legal status of the *Innovative Technology Park* innovation cluster and the specifics of managing the Innovative Technology Park special economic zone.

The main activities of the Innovative Technology Park are to integrate science, education and industry; develop priority areas for basic and applied scientific research; promote the commercialisation of innovation cluster development entities and develop international cooperation in innovative technology.

Innovation clusters are created to accelerate the development of new technology to improve the organisational, economic and social research conditions, and to develop new approaches to ease their commercialisation.

Within six months of the date the law enters into force, the participant/founder should establish a fund by reorganising the legal entity in question with state participation in authorised capital. In turn, the Innovative Technology Park management company acts as the park's governing body until it becomes part of the fund, in accordance with Kazakhstan law.

The Law entered into force from 23 June 2014.

Law No. 209-V dated 12 June 2014 On the Introduction of Amendments and Additions to Certain Legislative Acts of the Republic of Kazakhstan regarding Improvements to the Investment Climate

The Law amends a number of acts, including the Land Code, Tax Code the Investment Law and others.

The Law was designed to improve the investment climate and stimulate investor activity; provide a mechanism to provide investment incentives through investment contracts, and provide state support to investors conducting investment projects in priority sectors. State support for investors within the framework of concluded contracts involves 10-year CIT and land tax exemptions, 8-year property tax exemptions, compensation of up to 30% of the capital costs incurred by an investor once an object has been commissioned. As part of the concluded contracts, investors are entitled to hire foreign nationals for the entire period of construction of an investment project and for the year immediately following its commission, irrespective of work permit quotas.

In addition, an “investment ombudsman” has been created to protect investor rights and interests.

The Law entered into force on 23 June 2014, except for point 2, paragraphs 7-11, 17, 23 and 24 of subpoint 8) of point 5 of article 1, which enter into force from 1 January 2015.

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