



Monthly News Digest:
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International Law

The Review of Kazakhstan Trade Policy Has Been Approved

Kazakhstan trade policy is based on international EEU treaty obligations.

Long-term institutional policy in Kazakhstan focuses on ensuring sustained economic growth and creating a favourable environment to promote the country's economic interests, to create access for domestic goods and services to overseas markets and eliminate unethical competition.

The Review of Kazakhstan Trade Policy (hereinafter – “the Policy”) has outlined the following import regulation measures the use of which in practice is envisaged in the Policy:

- registration, documentation and customs procedure requirements
- the customs tariff regulation of foreign trade activities
- non-tariff measures for the regulation of foreign trade activities
- special protective, anti-dumping and compensation measures
- standards and technical requirements

The Policy also analyses the economic status of various sectors of the economy, including agriculture, industry and energy, as well as the Oil and Gas services industry.

The Policy also describes measures around commodity and monetary policy and inter-bank credit relations.

Implementation of the Principles and Provisions of English and European Law

On 25 October 2017, Astana hosted an international conference to discuss improving Kazakhstan civil law through the implementation of specific principles and provisions of

English and European law into Kazakhstan legislation. The conference was attended by Kazakhstan Parliament deputies, Supreme Court and Constitutional Court representatives, representatives from the National Bank and other state authorities, non-state organisations, and leading academic institutions from Kazakhstan and overseas.

Discussions led to the following proposals and recommendations with respect to the implementation of provisions of English and European law in civil legislation:

- the implementation of the estoppel device as an addition to the principle of good faith;
- improvements to rules for the legal interpretation of civil and legal agreements (contra proferentem);
- the introduction of the widely used indemnity clauses into civil law;
- the imposition of personal liability on the founders and executives of a legal entity for its debts, and the establishment of the subsequent control over a corporation's material status.

Oil and Gas

Changes Introduced Into Rules for Conducting Offshore Oil Operations, Operations in Ecological Disaster Areas and in Highly Protected Areas

The Kazakhstan Government, following the results of state ecological reviews, now permits offshore oil operations, operations in ecological disaster areas and in highly protected areas. The changes were made following discussions about the State reviews between

the President of the ROK and the government.

Immigration Law

Rules for Regulating Migration Processes in Almaty Have Been Approved

Rules regulating migration processes in Almaty have been developed to:

- manage migration processes and economic growth;
- strengthen national safety;
- create conditions for the implementation of socio-economic rights for migrants.

Public registration will be done through the “Public” and “Registration of Temporarily Resident Foreign Nationals” databases.

Under the Rules:

- Russian nationals should register within 30 calendar days of arrival;
- Belarus nationals should register within 30 calendar days of arrival;
- Ukraine nationals are not required to register if their period of stay does not exceed 90 days over a 180-day period, provided they have a migration card with an entry stamp provided by passport control;
- persons holding diplomatic or service passports arriving in Kazakhstan with “diplomatic”, “service” or “investor” visas or if their “investor” status has been confirmed by the State body for investment are not required to register;
- EEU member state nationals are not required to register provided they do not stay longer than 30 calendar

days, during which they perform employment activities;

- foreign nationals from the so-called economically developed, politically and migration- stable countries are not required to register.

Rules for Issuing Foreign Nationals and Stateless Individuals Temporary and Permanent Residence Permits Have Been Changed

Permits are considered and issued by the Astana, Almaty and oblast migration departments.

The requirement to legalise documents submitted in an application has been abolished.

Documents submitted by anyone aged up to 18 years of age arriving in Kazakhstan alone and by individuals with permanent registration in Kazakhstan and renouncing Kazakhstan citizenship or whose Kazakhstan citizenship has expired, will be considered over a 10-day period.

After documents have been accepted and checked by the home affairs authorities and statistics committee, materials to issue permits are sent for agreement to the regional National Security department using the "Berkut" integrated information system.

Business

"Khorgos" International Border Cooperation Centre Special Economic Zone ("SEZ") has been set up until 2041

The "Khorgos" International Border Cooperation Centre SEZ has been created in accordance with Government Resolution № 624 dated 6 October 2017. It will be regulated by a statute approved by

the same resolution and other legislative acts.

Entities in the SEZ will be entitled to:

- engage in retail and wholesale trading, except for vehicles and motorcycles;
- provide financial services, except insurance and pension fund services;
- produce food;
- produce clothing;
- manufacture pharmaceutical products;
- manufacture packaging.

A National Investment Strategy Programme Has Been Approved

A National Investment Strategy Programme (the "Programme") has been approved by Government Resolution № 498 dated 22 August 2017.

Its main objective is to create a favourable investment climate and attract performance-enhancing investment, and will operate in three areas to:

- improve the investment climate in Kazakhstan;
- implement effective operational measures and develop new approaches to attracting investment;
- ensure privatisation plans and state-private partnership mechanisms comply with foreign investment priorities.

Each area is based on specific goals the resolution of which will help achieve the Programme's main objectives.

A Model Subsidy and Guarantee Agreement Has Been Approved within the Framework of the Integrated "Business 2020 Road

Map" Support and Business Development Programme

A model subsidy and guarantee agreement has been approved in accordance with Government Resolution № 23419 dated 19 April 2016.

According to the Minister for the National Economy Order № 299 dated 11 August 2017, agreements will be concluded by the Regional Programme Coordinator and a financial agent (Damu Entrepreneurial Development Fund).

Regional Programme coordinators will send the financial agent local budget funds stipulated for subsidies and guarantees.

Pharmaceutical Activities

Amendments Have Been Made to State Pharmaceutical Service Standards

According to the Minister for Health Order № 533 dated 17 July 2017, a number of state service standards have been replaced, such as "for issuing conclusions on the safety, effectiveness and quality of medicines, medical items and medical equipment" and "for issuing *pharmaceutical product certificates*".

The deadline for the Ministry of Health's Pharmacy Committee to provide the following state services has changed:

- "Issuing permission and (or) conclusion (permit) to import (export) medicines, medical items and medical equipment registered and not registered in the Republic of Kazakhstan" – from 7 to 5 business days from the moment documents are submitted
- "Issuing permission to perform the clinical research

and (or) testing of pharmaceutical and medicinal items, and medical equipment” – from 10 business days to 7 business days from the moment documents are submitted.

Electronic copies of lease or trustee management agreements for state property are no longer required to receive a license to engage in pharmaceutical activities through the “electronic government” website: www.egov.kz, www.elicense.kz.

Architecture and Construction Activities

The Qualifications Required to Perform Architecture, Town-Planning and Construction Activities Have Been Changed

According to Minister for Investment and Development Order № 277 dated 18 May 2017, the following amendments have been made to the qualifications and list of documents confirming compliance with them to perform architecture, town-planning and construction activities:

- the requirement to employ at least one engineering technician certified to perform planning and construction-assembly work does not extend to foreign nationals or foreign legal entities if they have at least one engineering technician working for them on a permanent basis.

The Transition from Snip To Eurocodes is Planned for the End of the Year

186 Soviet-era SNIps (acronym for ‘Construction Norms and Regulations’) developed before 1992 will be abolished before the

end of the year. The remaining 70 Kazakhstan-era SNIps developed in 1992-2010 will be abolished before the end of 2019 once the required Eurocode transition measures have been put in place.

Eurocodes were introduced in July 2015 and have existed in conjunction with construction standards.

Administrative Liability

The Mazhilis Has Approved Administrative Violations Code Amendments at the First Reading

The Mazhilis approved a draft Law introducing amendments and additions to the Administrative Violations Code at the first reading.

The Draft Law was created based on:

- the conceptual legislative plan for 2016 - 2021
- the President’s request from 27 April 2015

Its main objectives are to:

- further humanise administrative and tort law;
- systemise administrative and procedural standards
- improve and upgrade; specific administrative, legal and procedural institutions.

A proposal has been made to implement the above objectives by expanding the domain of the institute of curtailed production, reducing administrative fines and introducing discussion of temporary moratoriums on new fines or reinforcing current fines; expanding the persons authorised to initiate appeal reviews of acts as in the Civil Procedural and Criminal Procedural Codes.

Employment Issues

Discussions on the Abolishment of the Requirement to Provide Details of Vacancies Will Be Launched

At a session of the Social Sphere and Social Partnership Committee of the Presidium of Atameken, employers discussed the provisions of article 28 of the Law *On Employment*, obligating employers to provide details of all vacancies in employment centres.

A survey carried out by the National Chamber showed that small businesses were generally unaware of the requirement.

The Committee is currently reviewing the idea of amending legislation so as to free employers from having to draft and submit reporting on the issue.

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 - Licensing and Regulatory
 - Real Estate
- Legal Due Diligence
- Restructuring, liquidation, insolvency



Contact Us:

Almaty/Astana

Agaisha Ibrasheva

Tel.: +7(727) 258 13 40

Fax: +7(727) 258 13 41

Email: aibrasheva@deloitte.kz

Olessya Kirilovskaya

Tel.: +7(727) 258 13 40

Fax: +7(727) 258 13 41

Email: okirilovskaya@deloitte.kz

Assel Kazbekova

Tel.: +7(727) 258 13 40

Fax: +7(727) 258 13 41

Email: akazbekova@deloitte.kz

deloitte.kz

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