

LATEST AMENDMENTS TO THE LABOR AND SOCIAL LEGISLATION

IMPORTANT!

Kazakhstan introduced amendments into legislation, which affected the issues of labor relations and social protection of employees. The amendments entered into force on 1 January 2024.

The key legislative amendments in these spheres are as follows.

■ Amendment of the Procedure for Calculating Average Salary:

According to amendments to the Unified Rules of Calculating Average Salary¹, an employee's average salary is now calculated by multiplying the average daily (hourly) earnings by the number of days (hours) of work falling within the period of event subject to the work time balance in case of a five-day or a six-day work week.

In case of cumulative work time accounting, average salary is calculated according to a new methodology, taking into account the daily average number of working hours. The Rules provide for the procedure for calculating the daily average number of working hours.

Average salary for calculation of social temporary incapacity allowances is determined using another procedure for the employees working under the cumulative work time accounting procedure.

The amendments also affected the procedure for paying compensation for the unused leave. In case of cumulative work time accounting, compensatory payments for the unused days of the paid annual labor leave must also be calculated subject to the daily average number of working hours, based on the work time balance in case of a five-day or a six-day work week.

It is important that an employer is now granted the right to establish another average salary calculation procedure, which will differ from the procedure stipulated by legislation, provided only that this would not deteriorate the conditions of employees.

■ Amendments in the Sphere of Social Payments:

- Occupational payment on account of the employer's funds (Occupational Payment)**

¹ Order No. 504 of the Minister of Labor and Social Protection of Population of the Republic of Kazakhstan "On Introduction of Amendments into the Order No. 908 of 30 November 2015 of the Minister of Health and Social Development of the Republic of Kazakhstan on Approval of the Unified Rules of Calculating Average Salary" dated 12 December 2023.

According to legislation amendments², when employees involved in work with harmful labor conditions reach the age of 55 and in case relevant occupational pension contributions were made for them within at least 84 months, the Occupational Payment will be made to them on account of the employer's funds.

The right to get the Occupational Payment originates from the date of registering an application filed by an employee regarding completion of labor activities relating to work with harmful conditions, transfer to another job without exposure to harmful production factors or obtainment of consent to the Occupational Payment from an employer through a proactive service in accordance with the Kazakhstan Law on State Services.

The Occupational Payment is made until an employee reaches the age of retirement.

■ **Pre-retirement annuity**

In case of an employee's application for insurance payments under a pre-retirement annuity contract and compliance with the conditions stipulated by the Social Code of Kazakhstan, an employer must enter into a pre-retirement annuity contract in favor of the employee with an insurance company where the employer takes out mandatory accident insurance.

A pre-retirement annuity contract must be entered into not later than 7 business days of the date an employer submits a notice of intention to make an insurance payment under a pre-retirement annuity contract.

The insurance payments under a pre-retirement annuity contract are financed on account of a mandatory accident insurance contract. The insurance premiums under a pre-retirement annuity contract are calculated in accordance with the procedure established by the Kazakhstan Agency for Regulation and Development of Financial Market.

An employee gains the right to an insurance payment under a pre-retirement annuity contract in case of presence of the conditions stipulated by Article 195-1 of the Social Code of Kazakhstan. The insurance payments under a pre-retirement annuity contract are made starting from the day of filing an application determined by the date of registration of such application and required documents or by a date of obtaining consent to an insurance payment through a proactive service in accordance with the Kazakhstan Law on State Services.

The monthly amounts of the Occupational Payment and insurance payment under a pre-retirement contract are equal to the minimum subsistence level and are regulated subject to changes in the minimum subsistence level established by the National Budget Law for a relevant financial year.

The Occupational Payment and insurance payments under a pre-retirement annuity contract are organized and made via State Corporation "Government for Citizens" NJSC, and payment for these services is made on account of funds of the authorized labor agency.

Should you have any additional questions in connection with this Legal Update, we would be happy to provide more detailed information.

² Law No. 49-VIII of the Republic of Kazakhstan "On Introduction of Amendments into Certain Legislative Acts of the Republic of Kazakhstan on the Issues of Public Associations and Social Protection of Persons Involved in Work with Harmful Labor Conditions" dated 21 December 2023.

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