



## **Labour Code of the Republic of Kazakhstan**

### *Invalidated Unofficial translation*

Code of the Republic of Kazakhstan dated 15 May, 2007 № 251. Expired by the Code of the Republic of Kazakhstan dated November 23, 2015 № 414-V.

#### **Unofficial translation**

Footnote. It became invalid by the Code of the Republic of Kazakhstan dated 23.11.2015 № 414-V (effective from 01.01.2016).

## **GENERAL PART**

### **SECTION 1. GENERAL PROVISIONS**

#### **Chapter 1. MAIN PROVISIONS**

#### **Article 1. The basic definitions used in this Code**

1. The following definitions are used in this Code:

1) The civil service - professional activities of civil servants in the performance of official authority, aimed at achieving the objectives and functions of the state enterprises, government agencies and technical maintenance and operation of public authorities;

2) A civil servant - a person holding a paid staff position by the legislation of the Republic of Kazakhstan in state enterprises, public institutions and performing official authority in order to carry out their mandate and functions and the maintenance and operation of public authorities;

3) the minimum monthly wage - guaranteed minimum monthly payments to workers of unskilled (least complex) labour in the performance of work (job duties) under normal conditions and at normal working hours specified by this Code;

4) special clothing - clothes, shoes, hat, gloves, and other items intended to protect workers from the harmful and (or) hazardous working factors;

5) heavy work – types activities of the employee related to the permanent movement, displacement and hand transportation of weights (ten kilograms or more) and require more physical effort (energy expenditure of more than 250 kcal / h);

6) shift work - the work of two or three or four work shifts within 24 hours;

7) social partnership - a system of relationships between employees (employees' representatives), employers (representatives of employers), state bodies, aimed at harmonization of their interests in the regulation of labour relations and other relations directly linked to them;

8) the general, industrial (tariff), regional agreement (hereinafter - agreement) - a legal act, concluded between the parties of social partnership, defining the content and obligations of the parties to establish the conditions of labour, employment and social security for workers at the national, industrial and regional levels;

9) downtime - a temporary suspension of work for reasons of an economic, technological, institutional, other industrial or natural character;

10) qualification category (rank) - the level of the qualification requirements for employees, reflecting the complexity of the work performed;

11) conciliation commission - the body that is created by an agreement between the employer and employees (or their representatives) for adjustment of collective labour disputes through conciliation;

12) conciliation procedures – a consequential consideration of a collective labour dispute initially in a conciliation commission and if no agreement is in it - in a labour arbitration;

13) the mediator – an individual or legal entity engaged by labour parties to provide services in resolving of labour dispute;

14) holiday – a release of the employee from work for a certain period to ensure the employee’s annual rest or social objectives with maintaining his (her) place of work ( position) and the average wage in cases, prescribed by this Code;

15) labour – a human activity, aimed at creating material, spiritual and other values that are necessary for life and the needs of man and society;

16) payment for labour - the system of relations, connected with the provision of compulsory remuneration to the employee for his (her) work by the employer in accordance with this Code and other regulatory legal acts of the Republic of Kazakhstan, as well as agreements, labour, collective contracts and the acts of the employer;

17) the minimum standard of pay (MSP) - guaranteed to meet the minimum monthly wage of an employee, who engaged in heavy labour, work in harmful ( particularly harmful) or hazardous working conditions, including a minimum set of food, goods and services, required to restore vitality and energy of worker who has been in the process of work to harmful and (or) hazardous working environments;

18) Labour hygiene - a set of sanitary-epidemiological measures and means to preserve the health of workers, prevention of adverse effects of the work environment and the work process;

19) Labour dispute - the disagreements between the employee (employees) and the employer (employers) on the application of the labour legislation of the Republic of Kazakhstan, execution or change the terms of agreements, labour and (or) collective contracts, acts of the employer;

20) labour mediation - assistance to the population in employment, exerted by the authorized body on employment as well as by private employment agency;

21) working conditions - conditions of payment, rate setting, working time and rest time, the order of combining of professions (positions), expansion of service areas, the duties of a temporarily absent employee, safety and protection of labour, technical, production and living conditions, as well as other conditions agreed by the parties;

22) authorized state body for labour - the state body of the Republic of Kazakhstan, carrying out the state policy in the sphere of labour relations in accordance with the legislation of the Republic of Kazakhstan;

23) the territorial subdivision of the authorized state body for labour - the structural units of the authorized body for labour, performing within the respective administrative-territorial unit powers in the sphere of labour relations in accordance with the legislation of the Republic of Kazakhstan;

24) labour relations - the relationship between the employee and the employer, arising from the rights and obligations provided by labour legislation of the Republic of Kazakhstan, labour and collective contracts;

25) relations, directly related to labour - relations developing on the organization and management of work, employment, professional training, retraining and skills development of employees, social partnership, collective contracts and agreements, participation of employees (workers' representatives) to establish labour conditions in the cases provided by this Code, the resolution of labour disputes and the enforcement of labour legislation of the Republic of Kazakhstan;

26) labour safety - the state of security of workers, provided by complex measures that exclude the impact of harmful and (or) safety hazards to workers in the workplace;

27) safety conditions - compliance of the labour process and working environment to the requirements of safety and protection of labour in the performance of the employment duties;

28) monitoring of safety and protection the labour - system of observations on health and safety at work and the assessment and forecast of the occupational health and safety;

29) standards of health and safety - ergonomic, sanitary-epidemiological, psychophysiological and other requirements to ensure normal working conditions;

30) labour duties - obligations of the employee and the employer, provided by regulatory legal acts of the Republic of Kazakhstan, the act of the employer, labour and collective contracts;

31) labour experience - time in a calendar year, used by employees to perform employment duties, as well as other periods, included in the labour experience in accordance with this Code;

32) labour discipline - the proper performance by the employer and the employees, the obligations established by regulatory legal acts of the Republic of Kazakhstan, as well as agreements, labour, collective contracts, acts of the employer, the constituent documents;

33) work schedule – the order for regulating relations in the organization of work of employees and employers;

34) labour arbitration - temporarily acting body, established by the parties of the collective labour dispute and involving persons authorized to resolve a labour dispute, if agreement is not reached in the conciliation commission;

35) labour protection - security system for health and safety at the workplace, which includes legal, social, economic, organizational, technical, sanitary and epidemiological, treatment and prevention, rehabilitation and other activities and means;

36) social inspector for labour protection - representative of employees, exercising public control in the sphere of safety and protection of labour;

37) labour rate - definition of necessary labour (time) to do the work (production per unit) by employees in the specific organizational and technical conditions and establish the labour standards on this basis;

38) safe working conditions - working conditions, created by the employer, in which the exposure of worker to harmful and (or) hazardous factors is missing or the level of their exposure does not exceed safety standards;

39) the labour contract - a written agreement between the employee and the employer, pursuant to which the employee agrees to personally perform a specific job (labour function), to comply with labour regulations and the employer shall provide the employee with a job due to the labour function, working conditions specified in this Code, laws and other regulatory legal acts of the Republic of Kazakhstan, the collective contract, the employer acts and in a timely manner and in full pay the employee wage;

40) strike - total or partial cessation of work in order to meet their social, economic and professional requirements in the collective labour dispute with the employer;

41) salary - remuneration for labour based on skills of employee, complexity, quantity, quality and conditions of work, as well as compensation and incentive-based payments;

42) personal protective equipment (PPE) – means, designed to protect workers from exposure to harmful and (or) hazardous operational factors, including special clothing;

43) the employer – an individual or legal entity, with whom the employee has an labour relations;

44) representatives of employers – individuals and (or) legal entities, authorized under the constituent documents or power of attorney to represent the interests of the employer or group of employers;

45) acts of the employer - orders, instructions, regulations, labour regulations issued by the employer;

46) employment - a set of organizational, economic and legal measures designed to promote the employment of the population;

47) workplace - a place of permanent or temporary stay of the employee in the performance of job duties in the process of labour activity;

48) billing of the work - assignment of works to a certain complexity in accordance with the Unified rating and skills guide for jobs and occupations of manual workers and Qualification schedule of managers, professionals and other employees, tariff and qualification characteristics of occupations and typical qualifying characteristics for managers, professionals and other employees of organizations;

49) working hours - the time during which the employee in accordance with the acts of the employer and the terms of the employment contract performs the work duties, as well as other periods of time, which in accordance with this Code classified as working hours;

50) summarized recording of working time – recording of working time by summing it over a given by the employer recording period, which may not exceed one year;

51) harmful labour (particularly harmful) conditions – conditions, under which the impact of certain production factors leads to decrease the working capacity or illness of the employee or negative effect on the health of his (her) offspring;

52) harmful production factor - production factor, the impact of which on the employee can lead to disease or reducing the working capacity and (or) negative effect on the health of offspring;

53) occupational disease - chronic or acute disease caused by exposure to employee the harmful factors, in connection with the performance by an employee of the labour (official) duties;

54) guarantees - means, methods and conditions, by which the exercise of the rights granted to employees is secured in the field of social and labour relations;

55) safety standards - qualitative and quantitative indicators of the conditions of production, production and labour process in terms of organizational, technical, sanitary, biological and other rules, regulations, procedures and criteria to preserve the life and health of employees in the process of their employment;

56) hazardous working conditions - conditions under which the exposure of certain industrial or non-correctable natural factors leads in the case of non-compliance with safety rules to injury, occupational disease, sudden health deterioration or poisoning of

workers, resulting in temporary or permanent loss of ability to work, occupational disease or death;

57) hazardous production factor - production factor, the impact of which on the worker may result in temporary or permanent disability (occupational injury or illness) or death;

58) combination of job – performance by an employee in his (her) spare time other regular paid work under a labour contract;

59) employee - an individual, who has an employment relationship with the employer and directly performs work under a labour contract;

60) employees' representatives - the bodies of the labour unions, associations, and (or) other individuals and (or) legal entities authorized by (selected) employees in accordance with the laws of the Republic of Kazakhstan;

60-1) specialized organizations for the certification of production facilities – organizations, carrying out the certification of production facilities in terms of labour, with qualified staff and having laboratories for laboratory and instrumental survey of working-environment factors and working conditions or having contracts with organizations holding such laboratories;

61) holidays - days of national and state holidays of the Republic of Kazakhstan;

62) basic wage - a relatively constant part of the wage, including payments for tariff rates, post salary, piece-rates and the regular payments provided by the labour legislation, industrial agreement, collective and (or) labour contracts;

63) accident at work - impact on the employee the harmful and (or) hazardous factors in the performance of labour (service) duties or tasks of the employer, which resulted in a work accident, a sudden health deterioration or poisoning of the employee , which led him (her) to a temporary or permanent disability, occupational disease or death;

64) production equipment - machines, equipment, appliances, apparatus, instruments and other technical facilities necessary for work and production;

65) work injury - injury to the health of the employee, obtained by the performance of his (her) duties and led to the loss of ability to work;

66) production necessity - works to prevent or eliminate a natural disaster, accident or immediate control of their consequences, in order to prevent accidents, downtime, loss or damage to property and in other exceptional cases and to replace the absent employee;

67) certification of production facilities under the terms of labour - activity for assessment of the production facilities (shops, sites, workplaces, and other freestanding units of employers, carrying out industrial activity) in order to determine the conditions

of safety, hazards, heaviness, intensity of work on them, labour hygiene and determining the conditions of the work environment to the standards in the field of safety and protection of labour;

68) industrial sanitation - a system of sanitary and hygienic, organizational and technical means to prevent or reduce the exposure of the harmful production factors to workers;

69) compensation – monetary payments, related to a special regime of work and working conditions, unemployment, compensation to workers the costs, associated with the performance of labour or other duties provided by the laws of the Republic of Kazakhstan;

70) tariff system - a kind of payment system, in which the employee's salary is differentiated on the basis of tariff rates (salaries) and tariff schedules;

71) tariff scale - a set of wage categories and rate coefficients, which provides differentiation on the basis of the complexity of the work and training of employees;

72) tariff level - the level of complexity of the work and the index of qualification level, required for the job;

73) tariff rate (salary) – the fixed wage of the employee for performing labour standards (job duties) of a certain complexity (qualifications) per unit of time;

74) disciplinary action - a measure of discipline to an employee, used by the employer for a disciplinary offense;

75) disciplinary offense - a violation of labour discipline by the employee, as well as wrongful failure to perform or improper performance of duties;

76) rest time - the time during which the employee is free to perform job duties and the time which he (she) can use at his (her) discretion;

77) collective protection equipment - equipment designed for simultaneous protection of two or more employees from the effects of harmful and (or) hazardous production factors;

78) the collective agreement – a legal act in the form of a written agreement between a group of employees, their authorized representatives and the employer, which regulates social and labour relations in the organization and the procedure of development and conclusion of it established by Article 282 of this Code;

79) overtime work – the work done by the employee on the initiative of the employer beyond the established hours of work;

80) notification – a written statement of the employee or the employer or applications, submitted in any other way (through courier mail, post, fax and e-mail);

81) business trip – the direction of an employee by order of the employer to perform work duties for a specified period outside the place of permanent jobs, as well as the direction of the employee to another location for advanced training or retraining.

2. Other special notions and terms of labour legislation of the Republic of Kazakhstan are used with the meanings, defined in the relevant Articles of this Code.

**Footnote. Article 1, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication), dated 13.06.2013 No. 102-V (shall be enforced upon expiry of ten calendar days after its first official publication).**

## **Article 2. Labour legislation of the Republic of Kazakhstan**

1. Labour legislation of the Republic of Kazakhstan is based on the Constitution of the Republic of Kazakhstan and consists of this Code, the laws of the Republic of Kazakhstan and other regulatory legal acts of the Republic of Kazakhstan.

2. It is prohibited to include to other laws of the Republic of Kazakhstan the regulations governing labour relations, relations of social partnership and labour protection, except the cases provided in this Code.

3. If an international treaty, ratified by the Republic of Kazakhstan establishes the rules other than those contained in this Code, the rules of the international treaty shall apply.

International treaties ratified by the Republic of Kazakhstan are directly applicable to labour relations, except in cases where for the application of the international treaty requires the issuance of a law.

## **Article 3. The purpose and objectives of the labour legislation of the Republic of Kazakhstan**

1. The purpose of the labour legislation of the Republic of Kazakhstan is the legal regulation of labour relations and other relations, directly related to employment, aimed at protecting the rights and interests of the parties of labour relations and the establishment of minimum guarantees of rights and freedoms in the workplace.

2. The objectives of the labour legislation of the Republic of Kazakhstan are the establishment of the necessary legal conditions aimed at balancing the interests of the parties of labour relations, economic growth, increase the production efficiency and welfare.

## **Article 4. Principles of the labour legislation of the Republic Kazakhstan**

Principles of the labour legislation of the Republic of Kazakhstan are:

- 1) impermissibility of restriction of human and civil rights at work;
- 2) freedom of Labour;
- 3) prohibition of discrimination, forced labour and the worst forms of child labour;
- 4) ensuring the right to working conditions that meet safety and hygiene;
- 5) the priority of the life and health of the worker in relation to the results of production activities;
- 6) ensuring the right to fair remuneration of labour, which is not less than the minimum wage;



- 7) ensuring the right to rest;
- 8) the equality of rights and opportunities for employees;
- 9) ensuring the right of employees and employers for organizations to protect their rights and interests;
- 10) social partnership;
- 11) state regulation of health and safety;
- 12) ensuring the right of workers' representatives to exercise public control over the compliance with the labour legislation of the Republic of Kazakhstan.

**Article 5. Impermissibility of restriction of rights at work;**

Nobody can be restricted in his (her) rights at work, except in cases and in the manner provided by this Code and other laws of the Republic of Kazakhstan.

**Article 6. Freedom of Labour**

Everyone has the right to choose the work freely or agree freely to the work without any kind of discrimination and force to it, the right to dispose of their abilities to work, choose a profession and occupation.

**Article 7. Prohibition of discrimination in employment**

1. Everyone has an equal opportunity to exercise their rights and freedoms in the workplace.

2. Nobody shall be subjected to discrimination in the implementation of labour rights according to gender, age, disability, race, nationality, language, material, social and official status, place of residence, religion, political opinion, membership of a tribe or caste, to voluntary organizations.

The authorized body in the field of employment, an individual, a legal entity that carries out labour mediation, as well as an employer is prohibited to post advertising on vacancies that contain requirements of discrimination in the field of labour.

3. Differences, exception, preferences and limitations which are determined by characteristic of this type of work required or necessitated by the special protection of the state of persons in need of social and legal protection are not considered as discrimination.

4. Persons, who believe that they have been discriminated against in the workplace, may apply to a court or other authority in accordance with the laws of the Republic of Kazakhstan.

**Footnote. Article 7, as amended by the Law of the Republic of Kazakhstan dated 21.06.2013 No. 106-V (shall be enforced upon expiry of ten calendar days after its first official publication).**

**Article 8. Prohibition of forced labour**

Forced labour is prohibited.

Forced labour means any work or service, which is required from any person under the menace of any penalty and for which the said person has not offered himself voluntarily, except for the work:

required from any person as a result of the verdict, which came into force, provided that the work is carried out under the supervision and control of public authorities and that the person who performs it, is not hired to or placed at the disposal of individuals and (or) legal entities;

required in a state of emergency or martial law.

**Footnote. Article 8, as amended by the Law of the Republic of Kazakhstan dated 29.04.2009 No. 154-IV (the order of enforcement see Article 2).**

### **Article 9. Scope of this Code**

1. This Code regulates the following relations:

- 1) labour;
- 2) directly related to labour relations;
- 3) social partnership;
- 4) work safety and protection relations.

2. This Code, unless otherwise is provided by laws and international treaties ratified by the Republic of Kazakhstan, shall apply to:

1) workers, including employees of organizations located in the territory of the Republic of Kazakhstan, the owners of the property, participants or shareholders which are foreign individuals or legal entities;

2) employers, including organizations located in the territory of the Republic of Kazakhstan, the owners of the property, participants or shareholders which are foreign individuals or legal entities.

3. Particularities of labour regulations of specific categories of employees are established by this Code and other laws of the Republic of Kazakhstan.

4. The laws of the Republic of Kazakhstan shall not decrease the level of rights, freedoms and guarantees established in this Code.

### **Article 10. Labour contracts, the parties' agreement, social partnership, collective contracts, acts of the employer in the workplace**

1. Labour relations as well as other relations, directly related to employment are regulated by a labour contract, an act of the employer and collective contract.

2. Provisions of the agreements of the parties of social partnership, collective, labour contracts, acts of employers, worsening the situation of workers in comparison with the labour legislation of the Republic of Kazakhstan shall be deemed as invalid and shall not be applied.

3. Terms of the agreements, collective, labour contracts cannot be changed unilaterally.

Footnote. Article 10, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

#### **Article 11. Acts of the employer**

1. The employer shall issue acts within its jurisdiction in accordance with this Code and other regulatory legal acts, labour contracts, agreements, a collective contract.

2. In the cases, provided by this Code, the collective contract, the employer shall issue the acts with the agreement or the opinions of the employee's representatives.

3. Acts of the employer, worsening the situation of workers in comparison with the labour legislation of the Republic of Kazakhstan, by the collective contracts, agreements or issued without compliance with the procedures specified in paragraph 2 of this Article, shall be invalid and shall not be applied.

Footnote. Article 11, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

#### **Article 12. The treatment of opinion or consent of the workers' representatives in the issuance of acts of the employer**

1. Employer in cases, provided in this Code, agreements, collective contracts, shall issue acts considering the opinion or in consultation with the employees' representatives.

2. Before the issuance of the act, the employer presents his (her) project and justification of it to employees' representatives.

3. The draft act of the employer is discussed by employee representatives no more than three working days from the date of its submission.

4. Decisions of employee representatives are recorded in the protocol, which indicates the agreement (disagreement) of the employee representatives with the draft act of the employer, in the presence of their proposals.

5. If the opinion of the employee representatives does not include the acceptance of the draft act of the employer or contains proposals to improve it, the employer:

1) shall issue the act as amended by the proposals of employee representatives in the case of the agreement;

2) shall provide further consultations with employee representatives in the case of disagreement.

6. If agreement cannot be reached on the draft acts of the employer for issue of which in accordance with this Code, the agreement with employee's representatives is required, the differences which arise shall be recorded in the protocol, after which the employer has the right to pass the act.

7. In the case of issuance of the act by the employer without taking into account the proposals in full or in parts, the employee representatives may begin the process of collective labour dispute in the manner provided in this Code.

8. In case that the issued act of employer contains provisions that violate or impair the rights and guarantees of workers under this Code, labour, collective contracts, agreements, it may be appealed to the local agency for the labour inspection or the court.

**Footnote. Article 12, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication), dated 13.06.2013 No. 102-V (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **Article 13. Calculation of periods of time, established by this Code**

1. A period of time established by this Code, the labour or collective contracts, agreements, is determined by the calendar date, by expiration of a period of time, which is calculated in years, months, weeks or days. The term can also be determined by reference to an event that must occur.

2. In cases, provided by this Code, the term is calculated in working days.

3. Running of the term, defined by the period of time begins the day after the calendar date of the event, which is defined by its beginning.

4. The period, calculated in years, months, weeks, expires on the corresponding day of last year, month, week. If the end of a period calculated in months, accounts for a month in which there is no corresponding day, the period shall expire on the last day of the month.

The term, calculated in calendar weeks or days shall include non-working days.

5. If the last day of the period falls on a non-working day, the last day of the period shall be the first following working day, unless otherwise provided in this Code.

### **Article 14. Liability for violation of labour legislation of the Republic of Kazakhstan**

Persons guilty of violating labour legislation of the Republic of Kazakhstan, shall be liable in accordance with the laws of the Republic of Kazakhstan.

## **Chapter 2. AUTHORITY of STATE BODIES in the FIELD of LABOUR RELATIONS**

### **Article 15. Authority of the Government of the Republic Kazakhstan in the field of labour relations**

The Government of the Republic of Kazakhstan:

1) develops guidelines and ensures the implementation of state policy in the field of labour safety and labour protection;

2) *is excluded by the Law of the Republic of Kazakhstan dated 03.07.2013 No. 124 -V (shall be enforced upon expiry of ten calendar days after its first official publication)*

3) *is excluded by the Law of the Republic of Kazakhstan dated 17.07.2009 N 188-IV (the order of enforcement see Article 2);*

4) determines the order of information and maintenance of state statistics in the field of security and safety;

5) *is excluded by the Law of the Republic of Kazakhstan dated 22.07.2011 No. 478-IV (shall be enforced upon expiry of ten calendar days after its first official publication);*

6) determines the amount of social benefits for temporary disability, the procedure of its appointment and payment;

7) approves the list of diseases for which the period of temporary disability for more than two months can be set;

8) establishes a uniform procedure for the calculation of the average wage;

9) approves the Model Regulation on the terms of remuneration and bonuses to executives of national companies, joint stock companies, a majority stake of which belong to the State;

10) determines the order of the civil service and the competition for the vacant position of a civil servant;

11) determines the list of posts of civil servants;

12) concludes a general agreement with the republican associations of employers and the republican associations of employees;

13) establishes a procedure for the adoption of regulatory legal acts in the field of occupational safety and health by respective bodies;

14) approves the system of remuneration of employees of organizations, financed by the state budget;

15) defines the general requirements for training, retraining and advanced training of personnel in the organization;

16) approves raising industry factors, determined by industry agreements;

17) sets up a commission to investigate the group accidents with death more than five people;

18) approves the form, procedures for maintaining and keeping the work books;

19) *is excluded by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (coming into force after ten calendar days after its first official publication).*

20) approves the procedure and rules of giving employees milk, healthful and dietary meals, special clothing, footwear and other personal protective equipment and establishes the procedure for providing them with the means of collective protection, ablution facilities and devices at the expense of the employer;

21) approves the list of jobs for which the employment of workers under eighteen years of age, limits for carrying and transportation of loads by workers under the age of eighteen is prohibited;

22) approves the list of jobs for which the employment of women, limits for lifting and moving heavy objects by hand by women is prohibited;

23) approves model regulations on security service and work safety in the organization;

24) determines the order of mandatory periodic certification of production facilities in labour conditions;

25) determines the order and timing of training, instruction and testing in the safety and protection of workers;

26) performs other functions assigned to it by the Constitution and laws of the Republic of Kazakhstan and the acts of the President of the Republic of Kazakhstan.

**Footnote. Article 15, as amended by the Laws of the Republic of Kazakhstan dated 19.12.2007 N 9-IV (the order of enforcement see article 2); dated 17.07.2009 N 188-IV (the order of enforcement see article 2); dated 05.07.2011 No. 452-IV (shall be enforced from 13.10.2011); dated 22.07.2011 No. 478-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication), dated 03.07.2013 No. 124-V (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **Article 16. Competence of the authorized state body for labour in the field of labour relations**

Authorized state body for labour:

1) implements the state policy in the field of labour, safety and protection of labour ;

2) *is excluded by the Law of the Republic of Kazakhstan, dated 05.07.2011 No. 452-IV (coming into force from 13.10.2011);*

3) organizes the state control in compliance with labour legislation of the Republic of Kazakhstan on employment, safety and protection of labour;

3-1) provides coordination and guidance of local executive bodies in the field of labour relations;

3-2) requests the necessary information from the local labour inspectorate on labour relation issues;

3-3) coordinates the appointment of the chief state labour inspector of the region, the city of republican significance, capital;

4) coordinates the activities of state bodies for the development of technical regulations in the field of safety and protection of labour;

5) coordinates and cooperates with other state bodies, as well as with representatives of employees and employers in the field of safety and protection of labour;

- 6) *is excluded by the Law of the Republic of Kazakhstan, dated 05.07.2011 No. 452-IV (shall be enforced from 13.10.2011);*
- 7) establishes the procedure for changing and revision of model rules and regulations on labour;
- 8) establishes the procedure for submission, review and approval of labour standards in organizations, for the services (goods, works) of which introduced the state regulation of tariffs (prices, rates);
- 9) establishes the procedure for submission, review and negotiate parameters for the wage system of employees of organizations, for the services (goods, works) of which introduced the state regulation of tariffs (prices, rates);
- 10) registers the industrial agreements and regional agreements concluded at the level of the region (city of republican status, capital);
- 11) provides training and certification of state labour inspectors;
- 12) controls the timely and objective investigation of accidents in the workplace in accordance with the legislation of the Republic of Kazakhstan;
- 13) carries out international cooperation in the field of labour relations;
- 14) *is excluded by the Law of the Republic of Kazakhstan dated 03.07.2013 No. 124-V (shall be enforced upon expiry of ten calendar days after its first official publication).*
- 15) develops the procedures and rules of giving milk, healthful and dietary meals, special clothing, footwear and other personal protective equipment to the employees and ensures the procedure for providing them with the means of collective protection, ablution facilities and devices at the expense of the employer;
- 16) defines the procedure for the development, revision, approval application of guides and qualification characteristics;
- 17) reviews and approves the typical qualification characteristics for managers, professionals and other employees of organizations of different types of economic activity;
- 18) establishes the procedure for the approval of model rules and regulations on labour by the authorized state bodies of the respective spheres of activity;
- 19) *is excluded by the Law of the Republic of Kazakhstan dated 05.07.2011 No. 452-IV (shall be enforced from 13.10.2011);*
- 20) *is excluded by the Law of the Republic of Kazakhstan dated 05.07.2011 No. 452-IV (shall be enforced from 13.10.2011);*
- 21) defines a list of industries, workshops, professions and positions, the list of heavy work, work in harmful (particularly harmful) and (or) hazardous working conditions, the work, which gives the right to reduced working hours, for an additional annual paid leave and for higher wages, and the order of their offering;



21-1) creates a commission to investigate the group accidents in death of three to five people;

22) organizes monitoring and risk assessment in the field of safety and protection of labour;

23) is excluded by the Law of the Republic of Kazakhstan dated 05.07.2011 No. 452-IV (shall be enforced from 13.10.2011);

24) is excluded by the Law of the Republic of Kazakhstan dated 05.07.2011 No. 452-IV (shall be enforced from 13.10.2011);

25) develops and approves the form of mandatory departmental reports, checklists, risk assessment criteria, semi-annual plans in accordance with the Law of the Republic of Kazakhstan “On State Control and Supervision in the Republic of Kazakhstan”;

26) exercises other authority stipulated by this Code and other laws of the Republic of Kazakhstan, acts of the President of the Republic of Kazakhstan and the Government of the Republic of Kazakhstan.

*Footnote. Article 16, as amended by the Law of the Republic of Kazakhstan dated 17.07.2009 N 188-IV (the order of enforcement see article 2); dated 19.03.2010 No. 258-IV; dated 06.01.2011 No. 378-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 05.07.2011 No. 452-IV (shall be enforced from 13.10.2011); dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 10.07.2012 No. 36-V (shall be enforced upon expiry of ten calendar days after its first official publication), dated 13.06.2013 No. 102-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 03.07.2013 No. 124-V (shall be enforced upon expiry of ten calendar days after its first official publication).*

#### **Article 17. Local agency for labour inspection in the field of labour relations**

Local agency for labour inspection shall:

1) exercise state control over the observance of labour legislation of the Republic of Kazakhstan, the requirements for safety and protection of labour;

2) monitor the collective contracts, submitted by employers;

3) analyze the causes of industrial injury, occupational diseases, occupational poisoning and develop proposals for their prevention;

4) investigate accidents at work in accordance with the laws of the Republic of Kazakhstan;

5) checking the knowledge of managers and those, who are responsible for the security and safety for employers;

6) participate as part of the acceptance committee for acceptance into operation of production facilities;

7) cooperate with authorized representatives of employees and employers on improving standards of safety and protection of labour;



- 8) consider the treatment of workers, employers and their representatives on safety and protection of labour;
- 9) monitor the certification of industrial facilities under the terms of labour.
- 10) develop and approve audit plans in accordance with the Law of the Republic of Kazakhstan “On State Control and Supervision in the Republic of Kazakhstan”;
- 11) submit periodical reports and the results of monitoring the state of health and work safety, based on information system for occupational safety and health to the authorized state body for labour;
- 12) provide the necessary information on labour relations in the authorized state body for labour.

**Footnote. Article 17 is in the wording of the Law of the Republic of Kazakhstan dated 13.06.2013 No. 102 (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **Article 18. Authority of local executive bodies in the field of labour relations**

Local executive bodies:

1) *is excluded by the Law of the Republic of Kazakhstan dated 22.07.2011 No. 478-IV (shall be enforced upon expiry of ten calendar days after its first official publication);*

- 1-1) implement the state policy in the field of labour relations;
- 2) in consultation with the local representative body determine the list of health care professionals, social security, education, culture and sports, working in the aul ( rural) areas;
- 3) register the industrial and regional agreements concluded at the city and county level;
- 4) coordinate strikes in organizations, providing the support of the population ( public transport, organizations that provide water supply, electricity, heat);
- 5) conclude regional (region, city, district) agreements with the regional employers’ associations and the regional associations of employees;
- 6) consider and agree on labour standards and parameters of the system of remuneration of employees of organizations, for the services (goods, works) of which introduced the state regulation of tariffs (prices, rates), in the order established by the state body for labour;
- 7) set a quota for the employment of categories of the population, defined by the laws of the Republic of Kazakhstan;
- 8) to the benefit of local government exercise other powers assigned to local executive bodies by the legislation of the Republic of Kazakhstan.

**Footnote. Article 18, as amended by the Law of the Republic of Kazakhstan dated 22.07.2011 No. 478-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 05.07.2011 No. 452-IV (shall be enforced from**

13.10.2011), dated 13.06.2013 No. 102-V (shall be enforced upon expiry of ten calendar days after its first official publication); by the Constitutional Law of the Republic of Kazakhstan dated 03.07.2013 No. 121-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 17.01.2014 No. 165-V (shall be enforced upon expiry of ten calendar days after its first official publication).

### **Chapter 3. SUBJECTS of LABOUR RELATIONS GROUNDS for LABOUR RELATIONS**

#### **19. The subjects of labour relations**

1. The subjects of labour relations are the employee and the employer.

Head of the branch or representative office of a foreign legal entity shall exercise all rights and perform all the duties of the employer on behalf of the legal entity.

2. Individuals and legal entities represent the interests of employees or employers within their delegated authority pursuant to regulatory legal acts, court decisions and the constituent documents or proxy.

#### **20. Grounds for labour relations**

1. Labour relations arise between the employee and the employer on the basis of a labour contract concluded in accordance with this Code, except as provided by the laws of the Republic of Kazakhstan.

2. In conformity with the procedure established by the laws of the Republic of Kazakhstan, the constituent documents, acts of the employer, to the conclusion of a labour contract may be preceded the following procedures:

- 1) election (ballot) for the position;
- 2) the election by competition for the respective position;
- 3) the appointment to office or approval in office;
- 4) the job placement by agencies authorized by law to the established quota;
- 5) a judicial decision on the conclusion of a labour contract.

#### **21. A labour contract with the citizens, referred to the established quota**

1. Local executive bodies establish quotas for the employment of categories of the population, defined by the laws of the Republic of Kazakhstan.

2. Employers within the quota conclude labour contracts with the persons, referred for employment, according to their qualifications for the requirements of the employer.

#### **22. The basic rights and obligations of the employee**

1. The employee has the right:

- 1) to conclude, change, supplement and terminate the labour contract on the terms and conditions prescribed by this Code;
- 2) to require the employer to fulfill the conditions of labour and collective contracts ;
- 3) on the safety and protection of labour;

- 4) to receive complete and accurate information about the state of working conditions and labour protection;
- 5) to timely and full payment of wages in accordance with the conditions of labour and collective contracts;
- 6) to pay for downtime in accordance with this Code;
- 7) on the rest, including the annual paid leave;
- 8) on the association, including the right to form labour unions or other associations and membership in them to provide and protect their labour rights, unless otherwise provided by the laws of the Republic of Kazakhstan;
- 9) to participate through their representatives in collective bargaining and in the drafting of a collective contract and become acquainted with the collective contract;
- 10) for professional training, retraining and advanced training in the manner provided in this Code;
- 11) for compensation for the damage caused to health in connection with the performance of duties;
- 12) on compulsory social insurance in cases provided by the Laws of the Republic of Kazakhstan;
- 13) to guarantee and compensatory payments;
- 14) to protect their rights and legitimate interests by all means not contradicting the law;
- 15) to equal pay for equal work without discrimination;
- 16) to appeal for resolution of the labour dispute to the conciliation commission or the court, choosingly;
- 17) in the workplace, equipped in accordance with the requirements of security and safety;
- 18) on the provision of means of individual and collective protection, special clothing, in accordance with the requirements of the legislation of the Republic of Kazakhstan on safety and protection of labour and labour and collective contracts;
- 19) to refuse to work in the event of a situation that creates a threat to health or life, with notice to the immediate supervisor or the employer's representative;
- 20) to maintain the average salary at the time of the suspension of the organization because of non-compliance with security and safety;
- 21) to appeal to the authorized body for labour or its subdivisions on the survey of security and safety conditions at the workplace and to representative participation in the review and consideration of the issues related to improving the environment, safety and protection of labour;
- 22) to appeal the actions (or inaction) of the employer in the field of labour and relations, directly related to them;

23) for payment for labour in accordance with the qualification, complexity of work, the amount and quality of the work and working conditions;

24) to participate in the management of the organization in the forms provided by this Code, other laws of the Republic of Kazakhstan and the collective contract;

25) on the settlement of individual and collective labour disputes, including the right to strike, in the manner prescribed by this Code and other laws of the Republic of Kazakhstan.

2. The employee shall:

1) perform job duties in accordance with the labour and collective contracts, the acts of the employer;

2) observe labour discipline;

3) meet the requirements for safety and labour protection, fire safety and occupational health at the workplace;

4) take care of the property of the employer and employees;

5) inform the employer about the situation, posing a threat to life, health, safety of property of the employer and employees, as well as the occurrence of downtime;

6) not disclose the information constituting the state secrets, official, commercial or other secrets protected by law, which became known to him (her) in connection with the performance of job duties;

7) compensate the damage, caused to the employer to the extent specified by this Code.

3. The employee has other rights and fulfills other obligations stipulated by this Code.

**Footnote. Article 22, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication), dated 13.06.2013 No. 102-V (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **23. The basic rights and obligations of the employer**

1. The employer has the right:

1) to the freedom of choice in employment;

2) to change, supplement, terminate the labour contracts with employees on the terms and conditions prescribed by this Code;

3) to issue within its authority acts of the employer.

The issuance of acts connected with the change of working conditions shall be in accordance with Article 48 of this Code;

4) to form and join associations to represent and protect their rights and interests;

5) to require employees to fulfill the conditions of labour and collective contracts, labour regulations and other acts of the employer;

- 6) to encourage employees, impose disciplinary sanctions, attract employees to material liability in the cases and manner prescribed by this Code;
- 7) to compensation of damage caused to the employee in the performance of duties;
- 8) to apply to court to protect their rights and legitimate interests at work;
- 9) to establish the probationary period to the employee;
- 10) to the reimbursement of expenses associated with the employee training, if it is determined by the terms of the labour contract.

2. The employer shall:

- 1) comply with the labour legislation of the Republic of Kazakhstan, agreements, collective, labour contracts and acts issued by them;
- 2) conclude in hiring the labour contracts with employees in the manner and under the conditions prescribed by this Code;
- 3) carry out internal control of safety and protection of labour;
- 4) provide the employee with a job due to the labour contract;
- 5) timely and fully pay the employee wages and other payments provided by regulatory legal acts of the Republic of Kazakhstan, labour and collective contracts, acts of the employer;
- 6) introduce the employee with the internal regulations of the organization, other acts of the employer, directly related to the job (labour function) of the employee and the collective contract;
- 7) provide employees' representatives with complete and accurate information necessary for collective bargaining and collective contracts and controlling their implementation;
- 8) consider the proposals of representatives of employees, bargain collectively and in the manner prescribed by this Code conclude a collective contract;
- 9) provide employees with working conditions in accordance with the labour legislation of the Republic of Kazakhstan, labour and collective contracts;
- 10) provide employees with equipment, tools, technical documentation and other means necessary for the performance of job duties at their own expense;
- 11) comply with the instructions of state labour inspectors;
- 12) suspend work if its continuation poses a threat to the life and health of employees and other persons;
- 13) carry out the compulsory social insurance for employees;
- 14) insure employees against accidents in the performance of labour (official) duties;
- 15) provide the employee with an annual paid leave;
- 16) ensure the safety and delivery to the State Archives of documents confirming the employee's work and information on withholding or deduction of money for their pensions;

17) warn workers about the harmful (particularly harmful) and (or) hazardous working conditions and the possibility of occupational disease;

18) take measures to prevent risks in the workplace and in industrial processes, carry out preventive work with the industrial, scientific and technological progress;

19) keep accurate records of working time, including overtime, in harmful (particularly harmful), hazardous working conditions, in heavy work performed by each employee;

20) provide employees with the training, retraining and professional development in accordance with this Code;

21) compensate the damage caused to life and health of the employee, in the performance of labour (official) duties in accordance with this Code and the legislation of the Republic of Kazakhstan;

22) freely allow officials of the authorized body for labour and territorial subdivisions of the authorized state body for labour, the employees' representatives, public labour inspectors to conduct safety audits, working conditions and protection of labour in organizations and in compliance with the legislation of the Republic of Kazakhstan on the safety and protection of labour and for the investigation of accidents and occupational diseases;

23) demand in hiring the documents required to conclude a labour contract in accordance with Article 31 of this Code;

24) ensure the maintenance of registers or other documents determined by the employer, in which indicated the surname, first name, patronymic (if specified in his (her) identity document) and the date of birth of employees under the age of eighteen.

3. The employer has other rights and fulfills other obligations stipulated by this Code.

**Footnote. Article 23, as amended by the Laws of the Republic of Kazakhstan dated 30.12.2009 No. 234-IV (order of enforcement see article 2); dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication), dated 13.06.2013 No. 102-V (shall be enforced upon expiry of ten calendar days after its first official publication).**

## **SPECIAL PART**

### **SECTION 2. LABOUR RELATIONS**

#### **Chapter 4. LABOUR CONTRACT**

##### **24. The subject of the labour contract**

Under a labour contract the employee performs the work (labour function) on appropriate qualification for compensation and complies with work schedule and the

employer provides the working conditions, timely and in full pays the employee wages and performs other payments under the labour legislation of the Republic of Kazakhstan, labour, collective contracts and the parties' agreement.

## **25. Guarantees of equal rights and opportunities at the conclusion of the labour contract**

1. It is prohibited to violate the equal rights and opportunities at the conclusion of the labour contract.

2. Pregnancy, the presence of children under the age of three years, minority, disability cannot restrict the right to conclude a labour contract, except in cases provided in this Code.

At the request of the categories of persons, referred in the first subparagraph of this paragraph the employer must report the reason for the refusal in writing.

2-1. When hiring, it is prohibited to make discriminatory claims in employment, on the grounds provided for in paragraph 2 of Article 7 of this Code.

3. On establishing of a fact of violation of equal rights and opportunities in a labour contract, the employer shall be responsible in accordance with the laws of the Republic of Kazakhstan.

**Footnote. Article 25, as amended by the Law of the Republic of Kazakhstan dated 21.06.2013 No. 106-V (shall be enforced upon expiry of ten calendar days after its first official publication).**

## **26. Limitations to conclude a labour contract**

1. It is prohibited to conclude a labour contract:

1) to perform the work, contraindicated for the person on the basis of a medical report;

2) with the citizens under the age of eighteen on hard work, work in harmful (particularly harmful) and (or) hazardous working conditions, as well as for the position and work, requiring full financial responsibility of the employee for failure to preserve property and other assets of the employer;

3) with the citizens, deprived of the right to hold certain positions or engage in certain activities in accordance with a valid court verdict;

4) with foreign and stateless persons, temporarily residing in the territory of the Republic of Kazakhstan before obtaining permission of the local executive body for involvement of foreign labour or with foreign worker for employment in the procedure established by the Government of the Republic of Kazakhstan or without the restrictions or limitations established by the laws of the Republic of Kazakhstan;

5) with foreign students and trainees, temporarily residing in the territory of the Republic of Kazakhstan and are not submitting an official document from the



educational organization, indicating the form of education or from the host organization for vocational training and (or) internship and residence permits for the purpose of education;

6) with foreign and stateless persons, temporarily residing in the territory of the Republic of Kazakhstan and are not submitting a permit to enter and stay for family reunification and proof, recognized by the legislation of the Republic of Kazakhstan as a legal marriage to a citizen of the Republic of Kazakhstan.

1-1. Conclusion employment contracts to perform work (services) in a household by one employer - individual simultaneously with more than five labour immigrants, is prohibited.

2. Employment of a person in a commercial organization is not permitted, except for state agencies and organizations in the authorized capital of which the state owns more than fifty percent, including the National governing holdings, national holdings, national companies, national development institutions, the shareholder of which is the state, their subsidiary organizations, more than fifty percent of the voting shares (interests) of which belong to them, as well as legal entities, more than fifty percent of the voting shares (interests) of which belongs to the listed subsidiaries, persons within one year after the termination of their public service, if the last year before terminating the civil service during the performance of public functions of the person in question by virtue of his (her) official powers to exercise control directly in the form of audits of this commercial organization or activities of the commercial organization was directly connected with that person in accordance with its competence.

3. Persons having or had a previous conviction for crimes against minors: murder, intentional infliction of harm to the health, against sexual integrity, as well as crimes related to human trafficking are not allowed to work in the field of education, training, recreation and health, physical education and sports, health care, social services, culture and arts with minors.

**Footnote. Article 26, as amended by the Laws of the Republic of Kazakhstan dated 29.12.2010 No. 371-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 22.07.2011 No. 478-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 17.02.2012 No. 566-IV ( shall be enforced upon expiry of ten calendar days after its first official publication); dated 04.07.2013 No. 127-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 10.12.2013 No. 153-V (shall be enforced upon expiry of ten calendar days after its first official publication).**

## **27. Distinction of the labour contract from other types of contracts**

Distinctive features of the labour contract from other types of contracts are the presence of one of the following conditions:



- 1) performance by the employee (labour function) of work under a certain qualification, profession, occupation or position;
- 2) fulfillment of obligations personally, in compliance with the labour regulation;
- 3) receipt of the employee wages for his (her) labour.

## **28. The content of a labour contract**

1. The labour contract shall contain:

1) details of the parties:

    surname, first name, patronymic (if specified in the identity document) of the employer – an individual, the address of his (her) place of residence and information on registration of residence, the name, number and date of issue of the identity document, the taxpayer identification number;

    the full name of the employer – a legal entity and its location, the number and date of registration of the employer-legal entity, the taxpayer identification number;

    surname, first name, patronymic (if specified in the identity document) of the employee, the address of his (her) place of residence and information on registration of residence, the name, number and date of issue of the identity document, the individual identification number, the taxpayer identification number, the social individual code;

- 2) the work to a certain profession, qualification or position (labour function);
- 3) the place of performance of the work;
- 4) the term of the labour contract;
- 5) the date of commencement of work;
- 6) working hours and rest periods;
- 7) the size and other terms of payment;
- 8) the description of the working conditions, guarantees and privileges, if the job is hard and (or) performs in harmful (particularly harmful) and (or) hazardous conditions;
- 9) the rights and obligations of the employee;
- 10) the rights and obligations of the employer;
- 11) the procedure for amendment and termination of the labour contract;
- 12) guarantees and compensation payments, the order of their payment;
- 13) conditions on insurance;
- 14) the responsibility of the parties;
- 15) the date and number.

1-1. In the case of changing the details of the parties, the appropriate changes are made to the labour contract.

2. By agreement of the parties, the labour contract may include other conditions that do not contradict the legislation of the Republic of Kazakhstan.

3. The provisions of the labour contract, worsening the situation of workers in comparison with the labour legislation of the Republic of Kazakhstan shall be deemed as invalid and shall not apply.

Footnote. Article 28, as amended by the laws of the Republic of Kazakhstan dated 22.07.2011 No. 478-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

## **29. The term of the labour contract**

1. A labour contract may be concluded:

1) for an indefinite period;

2) for a definite period no less than one year, except the cases provided by subparagraph 3), 4) and 5) of paragraph 1 of this Article.

With the extension of the labour contract, it is concluded for an indefinite period.

In the case of re-labour contract with the employee, concluded for a definite period no less than one year for his (her) labour functions, it is also considered to be concluded for an indefinite period.

The provisions of the second and third parts of sub-paragraph 2) of this paragraph shall not apply to persons, engaged in labour activities on the basis of a permit to employ foreign labour.

It is prohibited to conclude the labour contracts for a specified period in order to avoid the provision of guarantees and compensation provided to employees, with whom a labour contract concluded for an indefinite period.

If at the expiry of the labour contract, none of the parties during the last working day (shift) is required for termination of labour relations, it is concluded for an indefinite period;

3) during the performance of a certain work;

4) at the time of replacement of a temporarily absent employee;

5) at the time of the seasonal work.

6) within the term, established by the legislation of the Republic of Kazakhstan for permits, issued to the local executive body for foreign labour, a foreign worker to employment, or a permit, issued by the Internal affairs bodies to labour immigrants.

2. Labour contract to work as a head of the executive body of the employer - legal entity is for a period established by the constituent documents of the employer or by the agreement of the parties. The provisions established by paragraph 3 of this Article shall not apply to such a contract.

3. If the labour contract does not specify the validity period, the contract is concluded for an indefinite period.

Footnote. Article 29, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 10.12.2013 No. 153-V (shall be enforced upon expiry of ten calendar days after its first official publication).

## **30. The age at which may be concluded a labour contract**

1. A labour contract may be concluded with the citizens, who have reached the age of sixteen.

2. With the written consent of a parent, guardian or adoptive person the labour contract may be concluded with:

1) citizens who have reached fifteen years, if they receive basic secondary, general secondary education in the organization of secondary education;

2) students who have attained the age of fourteen years, to perform in their free time work, which is not harmful to health and does not disrupt the learning process;

3) persons under the age of fourteen, in organizations of cinema, theater, theatrical and concert organizations, circuses to participate in the creation and (or) performance of works without prejudice the health and moral development in compliance with the conditions specified in subparagraph 2) of paragraph 2 of this Article.

3. In the cases specified by paragraph 2 of this article, along with a minor, the labour contract must be signed by one of the parents, guardians or adoptive parent.

**Footnote. Article 30, as amended by the Law of the Republic of Kazakhstan of 27 July, 2007 No. 320 (the order of enforcement see Article 2).**

### **31. Documents, required for the conclusion of a labour contract**

1. For the labour contract, required the following documents:

1) an identity card or a passport (birth certificate to persons that have not attained the age of sixteen).

Repatriates submit an oralman certificate issued by the territorial bodies of the authorized body on migration;

2) a residence permit or certificate of the stateless person (for foreigners and stateless persons permanently residing in the Republic of Kazakhstan) or a certificate of refugee;

3) document confirming education, qualification, special knowledge or professional training at the conclusion of a labour contract for work that requires appropriate knowledge and skills;

4) proof of employment (for those with work experience);

5) document of the military registration (for military service and persons subjected to the draft);

6) document of passing the prior medical examination (for those who are obliged to undergo such an examination in accordance with this Code and the laws of the Republic of Kazakhstan);

7) copies of certificates for taxpayer identification number and social individual code;

8) a copy of a document confirming registration at the place of residence;

9) information on the presence or absence of a conviction at the conclusion of a labour contract in the field of education, training, recreation and health, physical education and sports, health care, social services, culture and arts with minors.

2. An employer may not require the documents, not provided in paragraph 1 of this Article, except the cases provided by other laws of the Republic of Kazakhstan.

3. In the case of keeping with the employee's consent the original documents from the employer or temporary abandonment for the procedures established by the legislation of the Republic of Kazakhstan, the employer shall give the employee a written undertaking to return the documents.

**Footnote. Article 31, as amended by the Laws of the Republic of Kazakhstan dated 22.07.2011 No. 478-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 29.01.2013 No. 74-V ( shall be enforced upon expiry of ten calendar days after its first official publication); dated 10.12.2013 No. 153-V (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **32. The order of conclusion, amendments and additions to labour contract**

1. Labour contract shall be in writing at least in two copies and shall be signed by the parties. One copy of the labour contract is kept by the employee and the employer. Getting of the employee the copy of the contract is confirmed in writing.

2. Amendments and additions to the labour contract, including the transfer to another job are made by the parties in writing in accordance with paragraph 1 of this Article.

A proposal to change the terms of the labour contract is served by a party of the labour contract in writing and considered by the other party within seven calendar days from the date of its submission.

3. The labour contract with the officials of the executive body of the organization shall be concluded by the owner of the property of the organization or by the person or the body authorized by him (her) in accordance with the constitutive documents of the organization.

### **33. Hiring procedure**

1. Hiring is made by the act of the employer, issued on the basis of a labour contract.

2. Employer within three working days must familiarize the employee with the act. Familiarisation with the act of the employer is certified by the signature of the employee.

3. At the request of an employee the employer is obliged to issue a certified copy of the act of the employer.

When hiring the employer must familiarise the employee with the internal regulations of the organization, other acts of the employer related to the job (labour functions) of the employee, the collective contract.

**Footnote. Article 33, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **34. Documents confirming labour activities of the employee**

The document confirming the employee's labour activity can be any of the following:

- 1) labour book;
- 2) labour contract with the stamp of the employer about the date and the basis of its termination;
- 3) statements of the acts of the employer, confirming the origin and termination of labour relations on the basis of the conclusion and termination of the labour contract;
- 4) extracts from the statements of salary payments to workers;
- 5) record (list of information about the work and labour activity of the employee), signed by the employer and affixed with the seal of the organization or notarized;

**Note of the RCLI!**

**In the period of suspension subparagraph 5) shall be valid in the wording of the Law of the Republic of Kazakhstan dated 21.06.2013 No. 106-V (see paragraph 4).**

- 5-1) statements of the pension fund on the delivered mandatory pension contributions;
- 5-2) information from the State Social Insurance Fund with the social contributions made;
- 6) archival information, containing information on the labour activity of the employee.

**Footnote. Article 34, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 21.06.2013 No. 106-V (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **35. Labour book**

1. Labour book is a document containing information on the labour activity of the employee.

2. *Is excluded by the Law of the Republic of Kazakhstan dated 05.07.2011 No. 452-IV (shall be enforced from 13.10.2011).*

3. The employer must write to the employee's labour book (if any) the relevant records of employment in the organization.

4. Employment records of the reasons for the termination of the labour contract shall be made specifying the norms of this Code.

Footnote. Article 35, as amended by the Law of the Republic of Kazakhstan dated 05.07.2011 No. 452-IV (shall be enforced from 13.10.2011).

### **36. Condition of probation period in a labour contract**

1. A labour contract may establish a condition of probation period in order to verify the qualifications of the employee to the assigned work. In the absence of this condition in the labour contract, the employee shall be employed without a probation period.

2. The probation period begins at the commencement of the labour contract.

3. During the probation period the provisions of this Code, the terms of labour and collective contracts shall apply to employees.

4. The probation period is included in the employee's labour experience and can not exceed three months. The employee's actual absent from work does not include in the probation period.

5. The probation period is not set for:

persons, entering work by a competition for the respective position;

persons, who have graduated from the organization of post-secondary, higher and postgraduate education for the first time to go to work in their specialty, but no later than one year from the date of graduation;

disabled persons.

Footnote. Article 36, as amended by the laws of the Republic of Kazakhstan of 27 July, 2007 No. 320 (the order of enforcement see article 2); dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

### **37. The test result in employment**

1. With a negative result of the employee during the probation period the employer may terminate the labour contract, warning him (her) in writing not earlier than seven calendar days before the expiration of the probation period with the reasons, leading to the recognition of the employee failed the probation period.

2. If the probation period has expired and no party has demanded the termination of the labour contract, the employee is considered to have passed the probationary period.

3. In the case of appointment of the employee to a higher position with the employer before the expiration of the probation period, the employee is also considered to have passed the probation period.

### **38. Commencement of the labour contract**

1. Labour contract begins from the date of its signing by the parties or on the established date.

2. Actual permission to work shall be only after the parties sign a labour contract.

3. In the absence and (or) improper execution of the labour contract by the employer's fault, he (she) is liable in accordance with the laws of the Republic of

Kazakhstan. In this case the labour relations are deemed to arise from the day when the employee starts work.

### **39. Invalidity of the labour contract**

1. Labour contract recognized by a court as invalid in the cases of its conclusion:
  - 1) under the influence of fraud, violence and threats;
  - 2) with no intention of creating the actual or legal consequences (imaginary labour contract);
  - 3) with a person, found incompetent;
  - 4) with a person under fourteen years of age, except as provided in subparagraph 3) of paragraph 2 of Article 30 of this Code;
  - 5) with a person under sixteen years of age, without the written consent of a parent, guardian or adoptive parent.

2. Recognition of the labour contract as invalid due to the fault of the employer shall not entail the loss of a former employee of the right to labour payment, compensation for unused days of paid annual leave, other payments and benefits.

3. Recognition of the labour contract as invalid due to the fault of the employer or employee shall entail their responsibility under the laws of the Republic of Kazakhstan.

4. Invalidation of the individual terms of the labour contract shall not entail the invalidity of the labour contract as a whole.

### **40. Prohibition the performance of work, which is not specified in the labour contract**

An employer may not require an employee to perform the work, which is not specified in the labour contract, except as provided by this Code and the laws of the Republic of Kazakhstan.

#### **40-1. Combination of posts (expansion of the area of service) and the performance of duties of temporarily absent employee**

With the written consent of the employee, he (she) may be entrusted, along with the work, as determined by the contract, additional work on the other or the same position for an additional payment in accordance with Article 131 of this Code.

Extra work in other positions, assigned to employee can be performed by combining the positions. Extra work in the same position, assigned to employee can be performed by expanding the service areas. For the performance of duties of temporarily absent employee and without leave from the work defined by the labour contract, additional work may be assigned to the employee as for the other and in the same position.

The employer with the written consent of the employee sets the period during which the employee will perform additional work, the content and volume of work. The employee has the right to early refuse on performance of the additional work and the employer has the right to early cancel the order on its implementation, with notification of the other party in writing not later than three working days.



Footnote. Chapter 4 is supplemented by Article 40-1, in accordance with the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

#### **41. Transfer of an employee to another job**

1. Transfer of an employee to another job is:

- 1) a change of work (labour function) of the employee, that is the performance of work on another post, profession, occupation, qualifications;
- 2) the order of work, in the execution of which changes the working conditions (wages, working hours and rest periods, benefits and other conditions) defined by the labour contract;
- 3) transfer to a separate structural unit of the employer;
- 4) transfer to another location together with the employer.

2. Transfer of an employee to another job is allowed with the consent of the employee and made by corresponding changes to the labour contract and the act of the employer, except the cases provided by this Code.

3. The employee's moving in the same organization to another job or in another structural unit of the organization in the same area, the order of work on another mechanism or aggregate are not a transfer to another job and requires the employee's consent, if it does not lead to changes, provided in paragraph 1 of this Article.

#### **42. Transfer of an employee to another location together with the employer**

1. The employer must notify the employee in writing of the oncoming move to another area of the employer not later than one month, if the labour and collective contracts do not provide for a longer notice period.

2. The employer makes compensation payments, provided by Article 153 of this Code and associated with moving of the employee in the case of his (her) transfer to a job in another location together with the employer.

3. In the case of a written refusal of an employee to transfer to another location together with the employer, the labour contract with an employee is terminated on the grounds specified in subparagraph 1) of paragraph 1 of Article 59 of this Code.

#### **43. Temporary transfer to another job in an operational need**

Employer in an operational need, including the temporary replacement of the absent employee, has the right to move employee without his (her) consent for a period of up to one month in the calendar year to another, not specified by the labour contract and contravenes his (her) health work in the same organization, in the same area with the payment for the work performed not less than the average wage in the previous job.

#### **44. Temporary transfer to another job in the event of downtime**

1. Employer in the event of downtime has the right to transfer an employee without his (her) consent to other work due to his (her) speciality, qualifications, which is not



contraindicated for health conditions, for not more than one month during the calendar year.

2. When transferring in the case of downtime, wages to the employee is paid for the work performed not less than two-thirds of the average wage in the previous job.

In the case of written refusal of the employee to continue the work due to changes of the working conditions, the labour contract with an employee is terminated on the grounds specified in subparagraph 2) of paragraph 1 of Article 59 of this Code.

#### **45. Temporary transfer to another job for health reasons**

1. An employee temporarily transfers to an easier job for health reasons at the time, specified in the medical certificate. By agreement of the parties, to the employee, wages on previous work can be saved.

2. Due to the injury, occupational disease or other health impairment, acquired in the performance of job duties, the employer is obliged to the rehabilitation or the establishment of disability or occupational disability to temporary transfer the employee to easier work or to release him (her) from work with the payment of compensation of damages in accordance with the civil legislation of the Republic of Kazakhstan and the conditions of labour and collective contracts.

3. In case of a written refusal of employee to temporary transfer to another job at getting in the performance of job duties of industrial injury, occupational disease or other damage to the health, unrelated to the operation, the labour contract with the employee is terminated on the grounds specified in subparagraph 4) of paragraph 1 of Article 59 of this Code.

**Footnote. Article 45, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **46. Restriction on the transfer of employee to another work**

Transfer of an employee to another job is not allowed, in case of contraindications to the employee for health reasons, confirmed by medical certificate.

#### **47. Relocation of an employee to another workplace. Changing the name of the position (work).**

1. The consent of the employee is not required in moving to another job or to another structural subdivision in the same area or assigned the work on other mechanism or aggregate within the office, profession, occupation, qualifications due to the labour contract, except in cases where the work in subdivisions for a certain workplace, mechanism or aggregate contains other conditions.

2. The employer without the consent of the employee may change the name of the position (work) of the employee, the structural subdivision, the management structure that do not involve the changes to the employee working conditions and (or) the labour contract.

#### **48. Change in working conditions**

1. Due to changes in the manufacturing process, including the reorganization and (or) reducing the amount of work of the employer are allowed to change the working conditions for worker in the continuation of his (her) work for the post, profession or speciality qualified due to the labour contract.

In case of changing in the working conditions, the appropriate amendments are made to the labour and (or) collective contracts.

2. On the change in working conditions that have occurred for the reasons, mentioned in paragraph 1 of this Article, the employer must notify the employee and (or) his (her) representatives in a written form not later than one month, if the labour and collective contracts do not provide for a longer notice period.

If the employee does not agree to continue the work in the new working conditions, the employer must provide him (her) in writing, in the presence of the other job which corresponds his (her) qualifications and health, in the absence of such work – the vacant lower position or a lower paid job, which the employee can perform with his (her) qualifications and health.

3. In case of written refusal of the employee to continue the work due to changes in the working conditions, the labour contract with the employee is terminated on the grounds, specified in subparagraph 2) of paragraph 1 of Article 59 of this Code.

4. If the circumstances, specified in paragraph 1 of this Article may result in the staff redundancy, an employer in order to preserve jobs has the right with regard to the opinion of the employee representatives to introduce the part-time work.

Canceling the part-time, which can lead to staff redundancy is made by the employer with the opinion of the employee representatives.

**Footnote. Article 48, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **49. Labour relations in the event of changing the name, departmental affiliation, a change of ownership of the property or reorganization of the employer**

In cases of changing the name, departmental affiliation, a change of ownership of the property or reorganization of the employer, the labour relations with employees shall continue without change.

#### **50. Removal from work**

1. In cases, provided by the laws of the Republic of Kazakhstan, the employer must remove the employee from work on the basis of the acts of the appropriate authorized state bodies.

2. Except, in cases provided in paragraph 1 of this Article, the employer shall remove from work the employee:

- 1) that stays at work in the state of alcohol, drug intoxication (their analogue) or uses substances during the working day, causing such intoxication;
- 2) that does not pass the exam on the safety and protection of labour;
- 3) that does not use the individual and (or) collective protection, provided by the employer;
- 4) that has not passed a medical examination or pre-shift medical examination, if they are required in accordance with the laws of the Republic of Kazakhstan;
- 5) if his (her) actions or inactions could result in the creation of an emergency, the violation of the safety rules, the fire safety or the safety of transport.

2-1. The employer has the right to remove the employee from work, who does not ensure the safety of property and other assets transferred to the employee on the basis of a written contract for acceptance of the full material liability.

3. For the period of removal from work to the employee, the salary is not saved and the temporary disability benefits are paid at the expense of the employer.

4. Removal from work of an employee is made by the act of the employer for determination and (or) elimination of the causes that led to the removal.

5. The salary for the employee shall be saved in case of his (her) illegal removal from work by the employer.

**Footnote. Article 50, as amended by the Laws of the Republic of Kazakhstan of 19 December, 2007 No. 9-IV (the order of enforcement see article 2); dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

## **51. Grounds for termination of a labour contract**

The grounds for termination of a labour contract are:

- 1) the termination of the labour contract by agreement of the parties;
- 2) the expiration of the labour contract;
- 3) the termination of the labour contract by the employer;
- 4) the termination of the labour contract by the employee;
- 5) the circumstances, beyond the control of the parties;
- 6) the employee's refusal to continue the labour relations;
- 7) the transfer of the employee to an elected job (position) or his (her) appointment to a post, eliminating the possibility to continue the labour relations, except in cases provided by the laws of the Republic of Kazakhstan;
- 8) the breach of the terms of the labour contract;
- 9) the grounds, provided in the contract, concluded with the head of the executive body of the employer.

## **52. Termination of the labour contract by agreement of the parties**

1. A labour contract may be terminated by agreement of the parties.

2. A party of the labour contract, wishing to terminate the labour contract by agreement of the parties shall notify the other party of the labour contract. The party, which has been notified shall inform the other party of its decision within three working days in a written form..

3. Date of termination of the labour contract by agreement of the parties shall be agreed between the employee and the employer.

4. By agreement with the employee, the labour contract may provide the right of the employer to terminate the labour contract without the requirements specified in paragraph 2 of this Article, with the compensation of payments in the amount not less than the average salary for the year.

### **53. Termination of the labour contract at the expiration period**

1. The labour contract, concluded for a definite period is terminated due to the expiration of its term.

2. The date of expiry of the labour contract, concluded for a definite period shall be the last day of the work of the employee, according to the period specified in the labour contract.

3. The date of expiry of the labour contract, concluded for the duration of a particular job shall be the day when the work is completed.

4. The date of expiry of the labour contract, concluded at the time of replacement of a temporarily absent employee, shall be the working day before the employee's return to work, for which retains the job (position).

5. If after the expiry of the labour contract, the labour relations continue in fact and none of the parties demand their termination, the contract is considered to be prolonged indefinitely.

**Footnote. Article 53, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **54. Grounds for termination of the labour contract by the employer**

1. The labour contract with the employee may be terminated by the employer, in the case of:

1) liquidation of the employer - legal entity or termination of the activity of the employer – an individual;

2) staff redundancy;

3) unsuitability of the employee for the position held or work due to insufficient qualifications;

4) unsuitability of the employee for the position held or work due to the health conditions, impeding the continuation of this work;

5) the negative result of work in the probation period;

6) absence of the employee at work without good reason for three or more hours per working day (work shift);

7) staying of an employee at work in the state of alcoholic, drug, psychotropic, inhalant intoxication (their analogue), including the cases of use of substances during the working day, caused alcohol, drug, inhalant intoxication (their analogue);

7-1) refusal from medical examination to establish the fact of using the substances, caused alcohol, drug, inhalant intoxication, confirmed by the relevant act;

8) violation of the rules for protection of the labour and fire safety or traffic safety in transport by the worker,, which resulted or could result in heavy consequences, including injuries and accidents;

9) commitment the theft (including small) of the people's property by the employee in the workplace and its intentional destruction or damage, ascertained by a valid judgment or decree of the court;

10) commitment of guilty actions or inaction of the employee, who serves the monetary or commodity values, if these actions or inaction give rise to loss of trust to him (her) on the part of the employer;

11) commitment of the employee, performing educational functions, the immoral offence which is not compatible with the continuation of this work;

12) disclosure of the employee of the information constituting the state secrets and other secrets protected by the law, which became known to him (her) in connection with the performance of job duties;

13) repeated non-performance or improper performance of the employee for the work duties without good reasons, if he (she) has a disciplinary action;

14) termination of the admission of the employee to the state secrets, in cases established by the laws of the Republic of Kazakhstan;

15) submission by the employee to the employer of false documents or information in the conclusion of labour contract or transfer to another job, if the original documents or information may be grounds for denial of the labour contract or a transfer to another job;

16) violation of the labour duties by the head of the executive body of the employer , his (her) deputy or the head of department subdivision of the employer, which caused material damage to the employer;

17) non-appearance of the employee at work for more than two consecutive months due to a temporary disability, except in cases when an employee is on maternity leave and if the disease is in the list of diseases for which a longer period of disability is established, approved by the Government of the Republic of Kazakhstan.

For the employee, who is unable to work due to an occupational injury or disease, the job (position) is stored to the establishment of rehabilitation or disability;

18) commitment of the corruption offence by the employee, which exclude the possibility of further work is excluded in accordance with the court decision;

19) continuation of the participation by the employee in the strike after bringing a court decision to his (her) attention on the recognition of the strike as illegal or the suspension of the strike.

2. For certain categories of workers, this Code provides the additional grounds for termination of the labour contract by the employer.

**Footnote. Article 54, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **55. Restriction on termination of the labour contract by the employer**

The termination of the labour contract by the employer is not allowed during the period of temporary disability of the employee on annual paid leave, except in cases provided in subparagraphs 1) and 17) of paragraph 1 of Article 54 of this Code.

**Footnote. Article 55, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **56. Procedure for termination of the labour contract by the employer**

1. The employer on the grounds specified in subparagraphs 1) and 2) of paragraph 1 of Article 54 of this Code shall notify the employee in writing of the termination of the labour contract for one month, if the labour and collective contracts do not provide for a longer notice period. With the written consent of the employee, the termination of the labour contract may be made before the expiry of the notice period.

2. Termination of the labour contract with employees, who are members of a labour union, on the grounds specified in subparagraphs 2) and 3) of paragraph 1 of Article 54 and the termination of the labour contract in accordance with subparagraph 2) of paragraph 1 of Article 59 of this Code is made taking into account the reasoned opinion of the body of the labour union of this organization in the manner, prescribed by the collective contract.

2-1. Termination of employment contracts with workers aged 55 years or until retirement age on the grounds specified in subparagraphs 2) and 3) of paragraph 1 of Article 54 of this Code is not allowed, without the presence of a positive decision of the commission, created from an equal number of representatives of the employer and employees.

The order for creating the commission is determined by the collective agreement and in its absence by the act of the employer issued in consultation with employee representatives.

3. For termination of the labour contract in accordance with subparagraph 4) of paragraph 1 of Article 54 of this Code, the unsuitability of the employee for the



position held or work due to the health conditions, impeding the continuation of this work should be validated by medical certificate in accordance with the laws of the Republic of Kazakhstan.

4. Termination of the labour contract on the grounds, provided in subparagraphs 6) - 13) and 16) of paragraph 1 of Article 54 of this Code, shall be made in compliance with the application of disciplinary action under Article 73, and the requirements of Article 74 of this Code.

5. Employer when terminating the labour contract on the grounds provided in subparagraphs 2) - 4) of paragraph 1 of Article 54 of this Code, shall take measures to transfer the employee to another job in the event of his (her) consent.

6. Termination of the labour contract by the employer by reason of unsuitability of the employee for the held position or work due to the insufficient qualifications in accordance with subparagraph 3) of paragraph 1 of Article 54 of this Code, shall be based on the decision of the certification committee, in which a representative of the employees should participate, unless otherwise provided by the laws of the Republic of Kazakhstan.

Procedures, conditions and periodicity of certification of employees are determined by the collective contract and in the case of its absence by the act of the employer, issued in consultation with the employees' representatives.

7. Staying of an employee at work in the state specified in subparagraph 7) of paragraph 1 of Article 54 of this Code shall be certified by a medical certificate.

The decision to send an employee to a medical examination is made by the authorized official of the employer.

In the event of refusal of the employee from a medical examination is made a corresponding act.

8. Termination of the labour contract in accordance with paragraph 17) of paragraph 1 of Article 54 of this Code shall be permitted after submission of the employee the certificate of incapacity of work.

**Footnote. Article 56, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 21.06.2013 No. 106-V (shall be enforced upon expiry of ten calendar days after its first official publication).**

## **57. Termination of the labour contract by the employee**

1. The employee has the right to terminate the labour contract by giving the employer at least one month's written notice to this effect, except in cases provided by paragraph 4 of this Article.

2. By agreement between the employer and the employee, the labour contract may be terminated before the expiry of the notice period provided in paragraph 1 of this Article.

3. The employee notifies the employer in writing of the termination of the labour contract at the time, specified in the application in cases where the termination of the labour contract due to the inability to continue the work.

4. The employee may notify the employer in writing of the non-performance of the employer of the terms and conditions of the labour contract. If after seven days of the written notice the non-performance of the employer of the labour contract continues, the employee may terminate the labour contract with a written notice to the employer no later than three working days.

5. During the notice period, provided in this article the employee has the right to withdraw the application to terminate the labour contract in writing.

6. Upon the expiration of the notice period, provided in this article, the employee has the right to stop work and the employer must give the employee the documents, related to his (her) labour activity and money payments due to him (her).

7. For certain categories of employees, this Code provides a special procedure for termination of the labour contract by the employee.

**Footnote. Article 57, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **58. Grounds for termination of the labour contract by circumstances beyond the control of the parties**

**Footnote. Title of Article 58, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

1. Labour contract shall be terminated in the following circumstances, beyond the control of the parties:

1) when calling up (entry) the employee for military service, from the date of presentation the document of the employee;

2) by entry into force of the verdict, under which the employee or the employer - an individual sentenced to punishment, which excludes the possibility to continue the work;

2-1) by withdrawing of the local executive bodies of the permission for foreign labour;

3) in the case of death of the employee or the employer - an individual and the declaration of a court of the employee or the employer – an individual as dead or the recognition as missing;

4) the recognition by a court of the employee as incapable or partially incapable, as a result of which the employee is unable to continue the previous work;

5) in the case of re-employment of the employee, who previously performed this work.



2. The date of termination of the labour contract on the grounds specified in subparagraphs 2) - 4) of paragraph 1 of this Article shall be the date of entry into force of the judgement of a court or the date of death.

**Footnote. Article 58, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **59. Grounds for termination of the labour contract by refusal of the employee to continue the labour relations**

**Footnote. Title of Article 59, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

1. The labour contract with the employee is terminated by the refusal of the employee to continue the labour relations in the cases of:

- 1) the employee's refusal to transfer to another location together with the employer;
- 2) the employee's refusal to continue the work due to changes in labour conditions;
- 3) the employee's refusal to continue the work in the reorganization of the employer - a legal entity;
- 4) the employee's refusal of a temporary transfer to another job at getting into the performance of job duties of employment injury, occupational disease or other damage to the health, not associated with production.

2. Termination of the labour contract shall be allowed only with the written refusal of the employee to continue the labour relations.

3. Termination of the labour contract under the circumstances specified in paragraph 1 of this Article during the period of temporary disability of the employee (including maternity leave) and holidays is not allowed.

**Footnote. Article 59, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **60. Termination of the labour contract with the transfer of the employee to an elected job (position) or his (her) appointment to a post**

The labour contract with the employee is terminated due to his (her) transfer to an elected job (position) or appointment to a post, if the laws of the Republic of Kazakhstan ban to hold other paid posts for the occupants of these positions.

The ground is the employee's notification to the employer and the act of election or appointment of the employee to a job (position).

#### **61. Grounds for termination of the labour contract due to breach of conditions for the conclusion of the labour contract**

Footnote. Title of Article 61, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

1. Labour contract shall be terminated as a result of a breach of conditions for the conclusion of the labour contract, if such a breach precludes the continuation of the labour relations in the cases of:

1) the labour contract for work, contraindicated to the employee for the health reason on the basis of a medical certificate;

2) the labour contract for work in violation of an enforceable judgment or decision of a court, under which the person deprived of the right to occupy certain positions or engage in certain activities;

3) the labour contract with foreigners and stateless persons without obtaining a permit to foreign labour in the prescribed manner or without the restrictions or limitations, imposed by the laws of the Republic of Kazakhstan;

3-1) the labour contract with a person specified in paragraph 2 of Article 26 of this Code;

3-2) the labour contract with a person specified in paragraph 3 of Article 26 of this Code;

4) in other cases provided by the laws of the Republic of Kazakhstan.

2. Termination of the labour contract on the grounds provided in subparagraphs 1) - 2) of paragraph 1 of this Article shall be allowed, if the employee cannot be sent with his (her) consent to other work provided by the employer and for the performance of which the employee does not have restrictions. The appropriate changes to the labour contract are made with the consent of the employee to go to another job.

3. Upon the termination of the labour contract in the case, provided in subparagraph 1) of paragraph 1 of this Article, the employer shall pay to the employee the compensation in the amount of the average salary for three months.

Footnote. Article 61, as amended by the Laws of the Republic of Kazakhstan dated 29.12.2010 No. 371-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

## **62. Execution of the termination of the labour contract**

1. Termination of the labour contract is executed by the act of the employer, except for termination of the labour contract in the event of death ( a declaration of a court as dead or recognized as missing) of the employer - an individual and termination of the labour contact with domestic workers.

2. The act of the employer must indicate the grounds for termination of the labour contract in accordance with this Code.

3. The date of termination of the labour contract shall be the last day of work, except in cases provided by this Code.

4. A copy of the act of the employer on termination of the labour contract shall be given to the employee or sent him (her) by a letter with notification within three days.

### **63. Issuing the labour book and work-related documents**

1. On the day of termination of the labour contract, the employer must give the employee the labour book or other documents, confirming the labour activity.

When, on the day of termination of the labour contract is impossible to give the employee the labour book due to the absence of him (her) or a refusal of its receipt, the employer shall, within ten working days send to the employee a notice to appear for a labour book or approve its sending by mail.

2. At the request of the employee (including the former), the employer must, within five working days of application, issue a statement indicating the profession (qualifications, position), the hours of work and the wage rate of the employee and the characterization-recommendation that includes information on the qualifications of the employee and his (her) relation to work, as well as other documents provided in this Code.

3. In the case of liquidation, bankruptcy of the employer – a legal entity, termination of the activity of the employer – an individual, the employer shall, if the debt, issue to the employee a duly executed certificate of the amount of the resulting salary arrears and other benefits.

**Footnote.** Article 63, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

## **Chapter 5. EMPLOYEE PERSONAL DATA PROTECTION**

**Footnote.** Title of Chapter is in the wording of the Law of the Republic of Kazakhstan dated 21.05.2013 No. 95-V (shall be enforced upon expiry of ten calendar days after its official publication).

### **64. Personal data of the employee and its processing**

**Footnote.** Article 64 is excluded by the Law of the Republic of Kazakhstan dated 21.05.2013 No. 95-V (shall be enforced upon expiry of ten calendar days after its official publication).

### **65. Requirements for the collecting, processing and protection of personal data of the employee**

Employer shall:

1) ensure the collection, processing and protection of personal data of the employee in accordance with the legislation of the Republic of Kazakhstan on personal data and protect them;

2) collect, process and protect the personal data of the employee to ensure compliance with the laws and other regulatory legal acts of the Republic of Kazakhstan, promote employee in employment, training and promotion, and personal safety of the worker;

3) guide by the Constitution of the Republic of Kazakhstan, this Code and other laws of the Republic of Kazakhstan in determining the scope and content of the personal data of the employee;

4) process personal data, submitted by the employee personally or by authorized state bodies, with the prior notification and consent of the employee;

5) at the request of the employee make changes and additions to the personal data of the employee in accordance with the legislation of the Republic of Kazakhstan on personal data and protect them;

6) ensure the procedure for storage of personal data of the employee in compliance with the requirements established by the legislation of the Republic of Kazakhstan on personal data and protect them;

7) ensure familiarization with the act of the employer, established in accordance with the legislation of the Republic of Kazakhstan on procedure for collecting, processing and protection of personal data of the employee;

8) not disclose personal data to a third party without the employee's written consent, except in cases stipulated by this Code and other laws of the Republic of Kazakhstan;

9) permit access to personal data only of employee to specially authorized persons. Thus, these persons shall be entitled to receive only the personal data of the employee that are required to perform specific functions, and respect the confidentiality;

10) carry out the spread of personal data of the employee within the organization in accordance with the requirements established by the legislation of the Republic of Kazakhstan on personal data and protect them;

11) warn persons that are allowed access to personal data of employees, that they are obliged to use them exclusively in the previously stated purposes and may not transfer them to third parties, except in cases prescribed by the laws of the Republic of Kazakhstan.

The employer shall not have the right to:

1) require the employee information about its political, religious and other beliefs and private life;

2) require the employee about his (her) membership or activity in voluntary associations, including trade unions.

**Footnote. Article 65 is in the wording of the Republic of Kazakhstan dated 21.05.2013 No. 95-V (shall be enforced upon expiry of six months after its first official publication).**

## **66. Storage of personal data of the employee**

Footnote. Article 66 is excluded by the Law of the Republic of Kazakhstan dated 21.05.2013 No. 95-V (shall be enforced upon expiry of six months after its first official publication).

## **67. Transfer of personal data of the employee**

Footnote. Article 67 is excluded by the Law of the Republic of Kazakhstan dated 21.05.2013 No. 95-V (shall be enforced upon expiry of six months after its first official publication).

## **68. Employees' rights in order to protect personal data held by the employer**

In order to ensure the protection of personal data held by the employer, the employees have the right to:

1) free access to their personal data, including the right to obtain copies of records containing personal data of the employee, except in cases provided by the laws of the Republic of Kazakhstan;

2) the requirement on making changes and additions, blocking, delete of personal data, the collecting and processing of which are made with violation of the requirements of this Code and other Laws of the Republic of Kazakhstan;

3) the requirement of the notice by the employer of persons, that have been previously reported the personal data of the employee, on the changes and additions to it;

4) an appeal in court against the actions (or inaction) of the employer, made during the collecting, processing and protection of his (her) personal data.

Footnote. Article 68 is in the wording of the Law of the Republic of Kazakhstan dated 21.05.2013 No. 95-V (shall be enforced upon expiry of six months after its first official publication).

## **Chapter 6. LABOUR ORDER. LABOUR DISCIPLINE**

### **69. Labour regulations**

1. The employer approves the labour regulations in consultation with the employee representatives.

2. Labour regulations set the working hours and the rest periods of the employees, the terms of the security of the labour discipline and other matters of labour relations.

3. The labour order for certain categories of employees is governed by the charter and the provisions, approved in accordance with the laws of the Republic of Kazakhstan.

4. Labour regulations are compulsory for the employer and the employees.

### **70. Ensuring the labour discipline**

The employer provides the labour discipline by creating the necessary organizational and economic conditions for individual and team work, the

conscientious attitude of the employees to work, methods of persuasion and rewards for hard work and the application of disciplinary sanctions for committing of the staff a disciplinary offence.

### **71. Encouragement for labour**

1. The employer may use different types of rewards of the employees for their achievements at work.

2. Types of rewards of the employees and their application are defined by the legislation of the Republic of Kazakhstan, the acts of the employer, the labour and collective contracts.

### **72. Disciplinary sanctions**

1. For committing of the employee a disciplinary offence, the employer may apply the following disciplinary sanctions:

- 1) a warning;
- 2) a reprimand;
- 3) a severe reprimand;
- 4) a termination of the labour contract by the employer in the cases established by this Code.

2. Application of the disciplinary sanctions, which are not provided by this Code and other laws of the Republic of Kazakhstan, is not allowed.

### **73. The procedure for application and appeal of disciplinary sanctions**

1. The employer imposes a disciplinary sanction by the issuance of the act of the employer.

2. The employer must request a written explanation from the employee before the application of a disciplinary sanction. Employee's refusal of a written explanation cannot preclude the application of a disciplinary sanction. In the case of employee's refusal to give the said explanation, is made a corresponding act.

3. In determining the type of disciplinary sanction, the employer must take into account the content, the character and the severity of the disciplinary offence, the circumstances of its commission, the prior and subsequent conduct of the employee, his (her) attitude to work.

4. For each disciplinary offence, to an employee can be used only one disciplinary sanction.

5. The act of the employer to impose a disciplinary sanction on the employee may not be issued in the period of:

- 1) temporary disability of the employee;
- 2) release of the employee from work for the duration of the state or public duties;
- 3) leave or rotational leave of the employee;
- 4) business trip of the employee.

6. The act of imposition of a disciplinary sanction is declared to the employer, subjected to a disciplinary sanction, under the signed receipt within three working days from the date of its issuance. In the event of the employee's refusal to confirm by his (her) signature the introduction to the act of the employer, it shall be registered in the act of imposition of a disciplinary sanction.

If it is impossible to familiarize the employee personally with the act of the employer on imposition of a disciplinary sanction, the employer shall send the act to the employee by a letter of notification.

7. The employee may appeal to a disciplinary sanction in the manner prescribed by this Code.

**Footnote. Article 73, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **74. Terms of imposition of disciplinary sanctions**

1. Disciplinary sanction shall be imposed on the employee immediately after the discovery of a disciplinary offence, but not later than one month from the date of discovery, except in cases provided by paragraph 5 of Article 73 of this Code and other laws of the Republic of Kazakhstan.

In the cases provided in Article 304, the disciplinary sanction shall be imposed no later than one month from the date of entry into force of the court decision on recognizing the strike as illegal.

2. Disciplinary sanction can not be applied after six months from the date of committing of a disciplinary offence and in the cases, provided by the laws of the Republic of Kazakhstan or establishment of a disciplinary offence as a result of an audit or review of the financial and economic activity of the employer - later than one year from the date of committing of a disciplinary offence by the employee. The time of the criminal case is not included in these terms.

3. The running of the time period of imposition of a disciplinary sanction is suspended for the time of the employee's absence from work due to temporary disability, the release from work for state or public duties and staying in a vacation, a business trip.

**Footnote. Article 74, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **75. Validity of a disciplinary sanction**

1. Validity of a disciplinary sanction shall not exceed six months from the date of application, except in cases provided in subparagraph 4) of paragraph 1 of Article 72 of this Code. If within this period the employee is not exposed to a new disciplinary sanction, he (she) is considered not to have a disciplinary sanction.



2. The employer, who imposed on the employee a disciplinary sanction may take it earlier on their own initiative, on the request of the employee or his (her) immediate supervisor, by the petition of the employees' representative.

## **Chapter 7. WORKING HOURS**

### **76. Working hours**

1. Working hours can be a normal length, shorter and part-time.

2. Working hours also include the set-up work (getting orders, materials, tools, familiarization with equipment, documentation, training and workplace cleaning, delivery of finished products, etc.), the breaks provided by the technology, the organization of work, the labour regulations and the protection of labour, the time of presence or waiting of work in the workplace, when the employee does not have the freedom of his (her) time, on the duty at weekends and holidays, the duty at home and other periods defined by the labour and collective contracts, the acts of the employer or the legislation of the Republic of Kazakhstan.

### **77. Normal working hours**

1. Normal working hours shall not exceed 40 hours per week.

2. The labour and collective contracts may provide for fewer working hours with the payment as for normal working hours.

### **78. Reduced working hours for certain categories of employees**

1. Reduced working hours are established for employees under the age of eighteen, in accordance with Article 181 of this Code.

2. Shorter working hours are established for workers engaged in the heavy work or the work under harmful (particularly harmful) and (or) hazardous working conditions, in accordance with Article 202 of this Code.

3. Shorter working hours are established for disabled persons of the first and the second groups, in accordance with Article 224 of this Code.

4. The labour and collective contracts may provide the duration of working hours, which is less than specified in paragraphs 1 - 3 of this Article.

5. Payment for labour of the employees in setting for them the shorter working hours is made in accordance with this Code.

### **79. Part-time work**

Part-time is the time that is less than the normal hours prescribed by this Code, including:

part-time, that is, the reduction of the norms of the duration of the daily work (work shift);

part-time, that is, the reducing of the number of working days in a work week;

simultaneous reduction of the norms of duration of the daily work (work shift) and reduction in the number of working days in a work week.

## **80. Working conditions for part-time work**

1. By agreement of the parties the labour contract may establish the part-time work to an employee.
2. Part-time is set for a definite or indefinite period.
3. Work in part-time work does not involve any restrictions for the employee in the length of annual paid leave specified by this Code, the labour and collective contracts, the agreements.

## **81. Types of work week**

1. A five-day working week with two days off is set for workers. In a five-day working week, the duration of daily work (work shift) is determined by the act of the employer in compliance with the specific of work and the established work week.
2. In organizations, where by the nature of production and the conditions of work the introduction of a five-day working week is impractical, a six-day working week with one day off is installed.
3. The employer in accordance with the terms of the labour and (or) collective contracts establishes the five-day or six-day working week.

## **82. Duration of daily work (work shift)**

1. In a five-day working week, the duration of daily work (shift) can not exceed 8 hours at a weekly limit of 40 hours, 7 hours and 12 minutes at a weekly limit of 36 hours and 5 hours at a weekly limit of 24 hours.
2. In a six-day working week, the duration of daily work (shift) can not exceed 7 hours at a weekly limit of 40 hours, 6 hours at a weekly limit of 36 hours and 4 hours at a weekly limit of 24 hours.
3. The duration of working day (work shift), the start and the end of the working day (work shift), the breaks in the work are determined in compliance with the established rules of the working week, by the rules of labour order by the organizations, the labour and collective contracts.
4. For creative workers of professional arts organizations and cultural activities, media professionals, athletes, trainers can set a different duration of daily work (work shift) in accordance with the labour legislation of the Republic of Kazakhstan, the acts of the employer or the labour and collective contracts.

## **83. Separation of daily work (work shift) in parts**

1. Separation of daily work (work shift) in parts shall be:
  - 1) at work with different intensity of work;
  - 2) on the initiative of the employee, if it is related to his (her) welfare and other personal needs.
2. When separation of daily work (shift) in parts, the total duration of working hours must not exceed the duration of daily work (work shift).

3. Types of work, where are the separation of daily work (work shift) in parts, the number and the duration of breaks and the types and the amount of compensation payments to the employees for work with such terms, are defined by the labour and collective contracts.

#### **84. Shift work**

1. Shift work may be established when the duration of the production process or the mode of production activity of the employer exceed the normal duration of the working day.

2. In the shift works the duration of the shift, the transition from one shift to another are set by shift schedule, approved by the employer in consultation with the employee representatives.

3. The employer informs the employee about the shift schedule not later than one month before its enforcement.

4. Engaging the employees to work for two work shifts in a row is prohibited.

#### **85. Flexible work schedule**

1. In order to combine social and household, and personal needs of the employees with the interests of production, for workers can set the flexible work schedule.

2. Under the regime of flexible working hours are established:

1) the fixed working hours;

2) the flexible (changeable) hours of work, during which the employee has the right at own discretion to perform job duties;

3) the accounting period.

3. As an accounting period of flexible working time is recognized the period within which must be kept the average norm of working time, set for this category of workers.

4. The accounting period of flexible working time cannot be more than one month.

5. Duration of working day (work shift) and (or) weekly work in flexible working time may be more or less than the normal duration of daily and (or) weekly working time.

6. Duration of fixed working time, flexible (changeable) working time, accounting period in the flexible working hours is established by the labour and collective contracts.

#### **86. Summarized recording of working time**

1. Summarized recording of working time is used in continuously operating production, workshops and stations and in occupations, where the conditions of production (work) can not establish for this category of workers daily or weekly working hours.

2. As an accounting period for summarized recording of working time is recognized the period within which must be kept the average norms of daily and (or) weekly working time for this category of workers.

3. Accounting period for summarized recording of working time can be any calendar period, but not more than one year or a period of a specified task.

4. In establishing the calculation of the total working time, the compliance with the rest periods of the employee between the end and the start of the next working day (work shift) is mandatory.

5. The working order in the summarized recording of working time, the category of workers for whom set the summarized recording of working time, is defined by the labour or collective contracts or by the act of the employer with regard to the opinion of the employee representatives.

6. Application of summarized recording of working time is not allowed in the cases provided by Articles 183, 190 and 225 of this Code.

### **87. Night work**

1. Night is the time from 22 pm to 6 am.

2. Engaging employees to work at night shall be in compliance with the restrictions established in this Code.

### **88. Limitation to engage in overtime work**

1. The overtime work is prohibited to:

1) pregnant women;

2) employees, who have not attained the age of eighteen.

2. Engaging to overtime work is allowed with the written consent of the employee, except in cases provided by Article 90 of this Code.

### **89. The limited amount of overtime work**

1. Overtime work of each employee should not exceed for two hours during the day and in heavy work, work in harmful (particularly harmful) and (or) hazardous working conditions should not exceed of an hour.

2. The total duration of the overtime work should not exceed twelve hours per month and one hundred and twenty hours a year.

3. Restriction of the limited number of overtime work shall not apply to work on the cases, provided in subparagraph 1) of Article 90 of this Code.

### **90. Exceptional cases, when permitted the overtime without the consent of the employees**

Overtime work without the employee's consent is permitted only in the following cases:

1) in the production of the works, necessary for the defence of the country, as well as to prevent emergencies, natural disasters or industrial accidents or immediate control of their consequences;

2) to eliminate the other circumstances that disrupt the normal functioning of water supply, gas supply, heat supply, power supply and other life support systems;

3) to continue the work in the absence of the successive employee, if the work does not allow for a break, with immediate action to replace another employee.

### **91. The order of recording of working time**

1. The employer shall maintain the records of working hours, which the employee actually worked.

2. The actual working hours, which include processed and unprocessed employee time, shall be subject to accounting.

3. Actual working hours of work and other periods of time that are related to working time shall be registered as a part of worked time. At the same time, overtime, night work, weekends, holidays, day of trips are counted separately.

4. Paid and unpaid time, and the lost of work time due to the fault of the employee and (or) the employer are accounted as a part of non-worked time.

5. Recording of working time shall be in the documents identified by the employer.

6. In cases, where the employee's work time includes the periods of work outside the workplace or their execution cannot be fixed by the employer at the specific time, these periods are registered in the documents of recording of working hours as the work performed, as established by the labour contract.

## **Chapter 8. REST TIME**

### **92. Types of rest time**

Types of rest time are:

1) breaks during the working day (work shift) - a break for rest and meals, between shifts and special breaks;

2) daily (between shifts) rest;

3) weekend (weekly rest);

4) holidays;

5) leave.

### **93. Break for rest and meals**

1. In the daily work (work shift) the employee must be given a break for rest and meals at least half an hour.

2. Break for rest and meals should be established no earlier than three hours and no later than four hours after the start of daily work (shift), except in cases provided in paragraph 3 of this Article.

3. Break for rest and meals can be established later than four hours after the start of daily work (shift) during the regime of flexible calculation of the recording of working time in the working day (shift) over 8 hours.

4. Labour regulations, labour and collective contracts shall establish the time of a break for rest and meal, its duration.

5. A break for rest and meals is not included in the working hours. At work, whereby the conditions of production, providing with a break is not possible, the employer must provide the employee with the opportunity to rest and meals during the working hours in a specially equipped place. The list of such works, the procedure and the place for rest and meals are established by the collective contract or the acts of the employer issued in consultation with the employee representatives.

#### **94. Breaks in between shifts and special breaks**

1. For certain types of work the employees are provided by breaks between shifts, due to technology and the organization of production and labour, which are included in the working hours. Types of work, duration and procedure of such breaks are determined by the collective contract or the acts of the employer issued in consultation with the employee representatives.

2. Employees, who are working in cold weather outdoors or in a non-heated areas, as well as engaged in loading and unloading are provided by special breaks for heating and recreation, which are included in the working hours. The employer shall provide the equipment for heating buildings and recreation of workers.

3. Working women with children under the age of eighteen months are provided, in addition to breaks for rest and meals, the additional breaks for feeding the child in accordance with Article 188 of this Code.

#### **95. Duration of daily (between shifts) rest**

Duration of daily (between shifts) rest of the employee between the end and the start of the next day (shift) cannot be less than twelve hours.

#### **96. Weekend**

1. Employees are provided by weekly weekend.

2. In a five-day working week, the employees are provided with two days off a week and in a six-day working week by one day.

3. Sunday is a common day off in a five-day and six-day working week. The second weekend in a five-day week is established by the act of the employer or the shift schedule. The two days off are provided in a row, unless otherwise is established by collective and labour contracts.

4. The first day of Kurban Ait, celebrated according to the Islamic calendar, the 7th of January - Orthodox Christmas are public holidays.

5. Employees, engaged in the continuous production or the production, where the stoppage of work on the weekends is impossible for production and technical conditions or due to the need for constant continuous public service, weekends are given on different days of the week to employees (group of workers) alternately, according to the shift schedule, approved by the acts of the employer issued in consultation with the employee representatives.

6. The employee, who is on a business trip, uses the days off in accordance with the labour regulations of the employer, to whom he (she) is directed.

### **97. Work on weekends and holidays**

1. Work on weekends and holidays on the initiative of the employer shall be permitted with the written consent of the employee, except in cases provided in Article 98 of this Code.

2. Work on weekends and holidays on the initiative of the employee is allowed on the basis of the act of the employer.

3. When work on weekends and holidays, to the employee at his (her) will is given another day of rest or the payment is made at the rate specified in Article 128 of this Code.

4. In the rational use of working time between national and public holidays, and in the cases provided in paragraph 4 of Article 96 of this Code, the Government of the Republic of Kazakhstan shall have the right to transfer weekends to other working days

**Footnote. Article 97, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **98. Exceptional cases of engaging to work on weekends and holidays, without the consent of the employee**

Engaging to work on weekends and holidays without the employee's consent is allowed in the following cases:

1) to prevent emergencies, natural disasters or industrial accidents or immediate control of their consequences;

2) to prevent and investigate accidents, loss or damage to property;

3) to perform urgent and unforeseen advance work, on the immediate performance of which depends a further useful work of the organization as a whole or its individual units.

### **99. Execution of the engaging of employees to work on weekends and holidays**

Engaging employees to work on weekends and holidays is executed by the act of the employer.

### **100. Types of leave**

1. Employees are given the following leave:

1) An annual paid leave;

2) A social leave.

2. Annual paid leave is given to the employee for the rest, the rehabilitation, the promotion of health and other personal needs of the employee, and provided for a certain number of calendar days with preserving the work (position) and the average wage.



2-1) Employees are given the following annual paid leave:

- 1) a main paid annual leave;
- 2) an additional annual paid leave.

3. Social leave is the release of the employee from work for a certain period in order to create favorable conditions for maternity, child care, education on the job and other social purposes.

4. Employees are given the following types of social leave:

- 1) a leave without pay;
- 2) a study leave;

3) a leave for the birth of a child (children), the adoption of a newborn child (children).

**Footnote. Article 100, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **101. Duration of the main annual paid leave**

**Footnote. Title of Article 101, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

The main annual paid leave is given to employees in the duration of twenty-four calendar days, if more days are not provided by other regulations, labour, collective agreements and acts of the employer.

**Footnote. Article 101, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **102. Additional annual paid leave**

1. Additional annual paid leave is given to:

- 1) workers, engaged in heavy work or work under harmful (particularly harmful) and (or) hazardous working conditions, in the period at least six calendar days;
- 2) disabled persons of the first and the second groups, in the period no less than fifteen calendar days.

2. For other categories of workers, the provision of additional annual leave and its minimum period may be established by the laws of the Republic of Kazakhstan.

3. Labour and collective contracts may provide the employees with the additional paid annual leave of the promotional nature for long and continuous work, performance of important, complex, urgent work, and work of another nature.

### **103. Calculation of the length of annual paid leave**

1. Duration of annual paid leave is calculated in calendar days, excluding public holidays falling on the days of vacation, apart from using order and schedules.

2. When calculating the total duration of annual leave, the additional annual leave is added to the main annual leave. The total duration of annual leave is not restricted by the maximum limit.

#### **104. Calculation of the length of service, giving the right to annual paid leave**

The length of service, giving the right to annual paid leave, shall include:

- 1) the actually worked hours;
- 2) the time, when the employee did not actually work, but the job (position) and wages in whole or in part remained to him (her);
- 3) the time, when the employee did not actually work due to the temporary disability, including the time spent on maternity leave;
- 4) the time, when the employee did not actually work before re-employment.

**Footnote. Article 104, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **105. The procedure for providing the annual paid leave**

1. Annual paid leave to an employee for the first and the subsequent years of work is given by agreement of the parties at any time of the year.

2. Specifics of giving of annual paid leave to employees, who work on a rotational basis, are established by Article 213 of this Code.

3. By agreement between the employee and the employer the annual paid leave can be divided into parts.

4. Annual paid leave is transferred, renewed, suspended in the cases and in the manner specified in Articles 108 and 109 of this Code, in compliance with the requirements of paragraph 3 of Article 108 of this Code.

5. Payment for annual paid leave shall be made not later than three calendar days in advance, and in the case of giving the leave out of the schedule - not later than three calendar days from the date of giving.

**Footnote. Article 105, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **106. Determination of the period for providing the annual paid leave**

Working year consists of twelve months, calculated from the first day of work of the employee.

#### **107. The order for granting the annual paid leaves**

1. The order of granting of annual paid leaves to the employees is determined by the leave schedule, approved by the employer with regard to the opinion of the employees or established by agreement of the parties.

2. In the case of changing the leave schedule due to operational needs, the employer must notify the employee about it not less than two weeks before the start of the leave.

**Footnote.** Article 107, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

#### **108. Cases and procedure for transferring the annual paid leaves**

**Footnote.** Title of Article 108, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

1. Annual paid leave shall be transferred in whole or in part, in the case of:  
temporary disability of the employee and the maternity leave:  
the performance of the employee during the annual paid leave of public duties, if the law provides an exemption from work.

2. Annual paid leave (part of it) shall be transferred only with the written consent of the employee or at his (her) request. The transferred labour leave by agreement of the parties can be joined to the leave for the next year or given at the request of the employee at another time, separately.

3. Failure to provide with the annual paid leave for two years in a row is prohibited.

**Footnote.** Article 108, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

#### **109. Recall from the annual paid leave**

1. Annual paid leave can be terminated by the employer only with the written consent of the employee. Employee's refusal to an employer's offer is not a violation of the labour discipline.

2. Unused part of the annual paid leave due to the recall, by agreement of the parties of the labour contract shall be given during the current year or in the next business year, at any time or for joined to the annual paid leave of the next business year.

3. In the case of the recall of the employee from the annual paid leave, instead of giving unused leave at another time by agreement between the employee and the employer, to the employee may be paid compensation payments for unused days of the annual paid leave.

4. Recall from the annual paid leave of workers under eighteen years of age, pregnant women and workers, engaged in heavy work or work under harmful (particularly harmful) or hazardous working condition is not permitted.

#### **110. Compensatory payment for unused annual paid leave at the termination of the labour contract**

Upon termination of the labour contract to the employee, who is not used or used fully the annual paid leave (annual leave), is making the compensatory payment for unused days of annual paid leave (annual leaves).

### **111. Leave without pay**

1. Leave without pay may be given by agreement of the parties on the labour contract on the basis of the application of the employee.

2. The period of leave without pay is determined by agreement between the employee and the employer.

3. At the written request of the employee, the employer shall give a leave without pay for up to five calendar days for:

- 1) marriage;
- 2) the child's birth;
- 3) death of a close relative;
- 4) in other cases provided in labour and collective contracts.

### **112. Study leave**

1. Employers, who are studying in educational institutions are granted the study leave for preparing and taking tests and exams, laboratory work, training and protection of research work (project) and passing the training programs for military-trained reserve.

2. Payment for study leave is determined by the labour and collective contracts and the contract of training.

**Footnote. Article 112, as amended by the Law of the Republic of Kazakhstan dated 16.02.2012 No. 562-IV (shall be enforced upon expiry of ten calendar days from the date of its first official publication).**

### **113. Leave for the birth of a child (children) and the adoption of a newborn child (children)**

1. Pregnant women, women who have a child (children), women (men) who adopted a newborn child (children), are given the following leaves for the birth of a child:

- 1) a maternity leave;
- 2) a leave to the employees, who adopted a newborn child (children);
- 3) a leave without pay to care for a child under the age of three years.

2. The leaves for the birth of a child (children) and the adoption (adoption) of a newborn child (children) are subject to conditions specified in Articles 192 - 195 of this Code.

3. *Is excluded – by the Law of the Republic of Kazakhstan of December 19, 2007 N 9 (the order of enforcement see Article 2).*

**Footnote. Article, as amended by the Law of the Republic of Kazakhstan of December 19, 2007 N 9-IV (the order of enforcement see Article 2).**

## **114. Execution of the leave**

Giving, transfer, renewal of the leave or recall from the leave are executed by the act of the employer.

## **Chapter 9. LABOUR NORMING**

### **115. State guarantees in the organization of labour norming**

State guarantees in the organization of labour norming include:

- model rules and regulations on labour;
- ensuring of the public authorities in the development of technically based model rules and regulations on labour;
- supervision to ensure of the employers the development, the introduction and the review of labour standards.

### **116. Labour standards**

1. Labour standards (production, time, service) are a measure of labour costs and shall be established for the employee of the appropriate training in accordance with the achieved level of technology, the organization of production and labour.

2. Production rates for workers under eighteen years of age shall be established in accordance with Article 182 of this Code.

3. In the payment by the hour to certain categories of employees can be set the normed jobs. The employer can establish the service standards or the norms (standards) of the employees to perform certain functions and scope of work.

### **117. Development, introduction of new, replacement and review of existing labour standards**

1. Development, introduction of new, replacement and revision of existing labour standards are made by the employer in consultation with the employee representatives due to the model rules and the regulations on labour.

2. The authorized state bodies of the respective spheres of activity in coordination with the authorized state body for labour and in the manner prescribed by it shall approve the model rules and the regulations on labour.

3. Replacement and revision of model rules and labour regulations are made by the bodies, which approve it in the manner prescribed by the authorized state bodies for labour.

4. Labour standards must be replaced as a result of the certification and rationalization of jobs, the introduction of new techniques, technologies and organizational and technical measures to ensure the productivity.

Achieving a high level of production of goods (services) by individual workers through the application of own new methods of work and improving the job is not a basis for revision of previously established labour standards.

5. The employees shall be notified at least one month with the introduction of new rules of the employer.

### **118. Requirements for the development of labour standards**

In the development of labour standards should be provided:

1) the quality of labour standards, their optimal approach to the necessary labour costs;

2) the establishment of the same labour standards for the same work, which performed in similar organizational and technical conditions;

3) the progressiveness of labour standards on the basis of the achievements of science and technology;

4) the coverage of labour standards of those types of work, for which it is possible and appropriate to establish labour standards;

5) technical (scientific) feasibility of labour standards.

### **119. Specifics of regulation of labour norming**

Procedure for submission, review and approval of labour standards in the organization of the services (goods, works) of which imposes the state regulation of tariffs (prices, rates), are established by the authorized state body for labour.

## **Chapter 10. PAYMENT FOR LABOUR**

### **120. State guarantees in the field of payment for labour**

State guarantees in the field of payment for employees include:

the minimum monthly wage;

the minimum hourly wage, determined in accordance with Article 122 of this Code

;

the minimum standards of payment for labour;

the payment for overtime work;

the payment for work on public holidays and weekends;

the payment for work at night;

the limiting of the size of deductions from the employee's salary;

the state control over the full and timely payment of wages and the implementation of the state guarantees in the field of payment for labour;

the order and time of the payment of wages.

### **121. Size of wages**

1. The monthly wage of the employee is set differentially depending on the qualifications of the employee, the complexity, quantity and quality of work and working conditions.

2. The monthly wage of the employee, who has worked the normal working hours in full at the period and performed the labour standards (job duties), cannot be lower than the minimum monthly wage established by the law of the Republic of Kazakhstan.

## **122. Determination of the minimum size for wages**

1. The minimum monthly wage, established annually by the law of the Republic of Kazakhstan on the national budget for the financial year, shall not be less than the cost of living and include extra payments and bonuses, compensation and social benefits, premium and other incentive payments and shall be paid in proportion to the time worked.

2. The minimum standard of wages is determined by calculating the minimum monthly wage established by the law of the Republic of Kazakhstan on the national budget for the year and increasing the industrial rates established by the agreement of industry and approved by the Government of the Republic of Kazakhstan.

3. The minimum hourly wage of the employee, who performed his (her) duties (labour standards), cannot be less than the minimum monthly wage, divided to the average number of working hours in accordance with the balance of working hours in the relevant calendar year.

4. The minimum monthly wage or the size of the monthly tariff rates of the first-class worker, provided by the conditions of the labour and collective contracts and (or) the acts of the employer cannot be below the minimum monthly wage established by the law of the Republic of Kazakhstan on the national budget for the financial year and for workers engaged in heavy work or work under harmful (particularly harmful) or hazardous working conditions shall not be less than the minimum wage standard.

## **123. Hourly wage**

Conditions of the labour and collective contracts and (or) the acts of the employer can set the hourly wage for the actual work performed in part-time or in part-time loading, as well as payments for temporary or one-time work.

## **124. Wage indexation**

Raise of wages includes the wage indexation, produced by the employer, in accordance with the agreements, the collective contract or the act of the employer, based on the level of inflation, defined in the same period by the regulatory legal acts of the Republic of Kazakhstan.

## **125. Organization the payment for labour**

1. Qualification requirements for employees and complexity of certain types of work are set on the basis of the Unified rating and skills guide for jobs and occupations of manual workers, the tariff and qualification characteristics of employees' professions, the Qualification schedule of managers, professionals and other employees and the standard qualification characteristics of managers, professionals and other employees of organizations.

2. Attribution of works to a certain complexity and assignment qualification categories and categories of the employees are made in accordance with the Unified rating and skills guide for jobs and occupations of manual workers and the



Qualification schedule of managers, professionals and other employees, the tariff and qualification characteristics of employees' professions and the standard qualification characteristics of managers, professionals and other employees of organizations.

3. Develop, review, testing, approval and usage procedure of the guides, the tariff and qualification characteristics of employees' professions are specified in paragraph 1 of this Article, which are determined by the authorized state body for labour. The standard qualification characteristics for managers, professionals and other employees of organizations of various economic activities are developed and approved by the authorized state bodies of the respective spheres of activity in coordination with the authorized state body for labour.

## **126. Payment system**

1. Work of employees is paid by the time rate, piece rate or by other payment system. Payment may be made for individual and (or) collective results of labour.

Payment system may be formed on the basis of tariff, tariff-free or mixed system.

The tariff remuneration system includes: base rate (salary), rate schedule and tariff rates.

The tariff-free payment system is based on share distribution of funds, intended to payment for labour, depending on the criteria and the principles of assessment of employees' competencies and their contribution to the final result.

The mixed system of payment may contain elements of both tariff and tariff-free pay systems.

2. To enhance the employees' interest in improving the production efficiency and the quality of performed work by the employer can enter the system of bonuses and other forms of incentives.

3. The employees' payment and incentive system are determined by the conditions of the collective contract, labour contract and (or) the acts of the employer.

4. Payment system must provide a share of the basic wage (relatively constant part of wages), which is not less than 75 percent in the average monthly salary of the employees excluding one-time incentive payments.

5. The remuneration system of the employees of the organizations, financed by the state budget and the cost (budget) of the National Bank of the Republic of Kazakhstan, shall be established by the regulatory legal acts of the Republic of Kazakhstan.

6. The conditions of remuneration and bonuses of the executives of national companies and joint stock companies, the controlling stock interest which belongs to the state, are determined on the basis of Standard regulations, approved by the Government of the Republic of Kazakhstan.

7. The procedure for consideration and coordination of the remuneration system for the labour of employees of the organizations, for services (goods, work) of which, the

state regulation of tariffs (prices, rates) is introduced and established by the authorized state body for labour.

8. Terms of payment for labour, defined by the labour, collective contracts, agreements and the acts of the employer, cannot be worsened in comparison with the conditions established by this Code and other regulatory legal acts of the Republic of Kazakhstan.

### **127. Pay for overtime work**

In remuneration for timework, the overtime work is paid not less than a half rate, on the basis of base salary (salary) of the employee. In piece-work pay, the extra pay for overtime work is made in the amount no less than fifty percent of the established base rate (salary) of the employee.

**Footnote. Article 127, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **128. Payment for work on holidays and weekends**

Payment for work on holidays and weekends shall not be less than twice in the amount, based on the daily (hourly) rates of the employee.

### **129. Payment for labour at night**

Every hour of work at night is paid not less than a half rate, based on the daily (hourly) rates of the employee.

### **130. Payment for labour in the performance of works of different qualifications**

Payment for labour in the performance by the employee of the works of different qualifications is made in accordance with the work of higher qualification.

In cases, when due to the operation mode, the work is given to the highly qualified, which is chargeable for lower category, assigned to him (her), the payment for labour is made to him, according to his (her) assigned degree (category).

### **131. Payment for labour in combining the positions (expansion of the service area) and temporary performance of duties of the absent employee**

1. The employees, who perform in one and the same organization, along with their main job, due to the labour contract, the additional work on the same or other positions or the duties of a temporarily absent employee, without the release of their main work shall be paid with extra payment.

2. Extra payments for the combination of posts (expansion of the service area) or the performance of duties of a temporarily absent employee are established by the employer on the terms of agreement with the employee.

**Footnote. Article 131, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (coming into force after ten calendar days after its first official publication).**

### **132. Payment for labour in the case of mastering new technologies (products)**

The collective and (or) labour contract may provide the retention of the employee's previous salary for the period of new production (products).

### **133. Payment for downtime**

1. The terms and conditions of payment for downtime due to the fault of the employer are defined by the labour and collective contracts and set at least fifty per cent of the average salary of the employee.

2. Downtime due to the fault of an employee shall not be paid.

### **134. The order and terms for payment of wages**

1. Wages are paid in cash in the national currency of the Republic of Kazakhstan at least once a month, not later than the first decade of the next month. The labour and collective contracts are provided with the date for payment of wages.

2. Under payment of wages, the employer must notify each employee on a monthly basis about the components of wages due to him (her) for the same period, the amount and the cause of the deductions made, including the information about retention and transfer of mandatory pension contributions, as well as the overall sum of money, which shall be paid, in the written form.

3. At the coincidence of the day for payment of wages with the weekends or the holidays, the payment is made on the previous day.

4. In case of delay of wages and other payments due to the fault of the employer, related to the termination of the labour contract with the employee, the employer shall pay the debt and default interest to the employee. The default interest is calculated on the basis of the refinancing rate of the National Bank of the Republic of Kazakhstan on the day of execution of obligations to pay the salary and is calculated for each calendar day of delay from the next day, when the payments should be made and ends on the day of payment.

5. Upon termination of the labour contract, the payment of the sum due and owing to the employee is made by the employer no later than three working days after its termination.

### **135. The place for payment of wages**

Payment of wages to employees must be made at the place of job made by them, if the terms of the labour and collective contracts are not provided otherwise.

### **136. Calculation of the average wage of the employee**

1. Calculation of the average wages as in a five-day and so in a six-day working week is made for the actual used time, at the rate of the average daily (time) earnings for the corresponding period, considering the established bonuses and allowances, premiums and other incentive payments, which are permanent under the system of payment.

2. The accounting period for calculating the average wage is the twelve calendar months, preceding the event with which the corresponding payment (payment) is

related under this Code. For the employees, who worked less than twelve calendar months, the average wage is determined for the actual used time.

3. For all cases of determination of the average wage provided by this Code, the Government of the Republic of Kazakhstan shall establish a uniform procedure for the calculation of average wage.

4. The collective contract may provide the different periods for the calculation of average wage, if it is not worsen the situation of workers.

### **137. Withholdings from wages**

1. Withholdings from the employee's salary shall be made by the court and in the cases provided by the laws of the Republic of Kazakhstan.

2. Withholdings from the employee's salary to redemption of the debt to the organization in which he (she) works, can also be made by the act of the employer with the written consent of the employee.

3. The total amount of the monthly withholdings shall not exceed fifty percent of the employee's wages.

### **138. Wage, which is not received owing to the death of an employee**

Wage, which is not received owing to the death of an employee, shall be issued in accordance with the civil legislation of the Republic of Kazakhstan.

## **Chapter 10-1. NATIONAL SYSTEM OF QUALIFICATIONS**

**Footnote. Section 2, is amended by Chapter 10-1, in accordance with the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **138-1. The concepts used in this Chapter**

In this chapter, the following terms are used:

1) National System of Qualifications is a set of legal and institutional mechanisms to manage the demand and supply in the qualification of specialists from the labour market;

2) National Qualifications Framework is a structured description of qualification levels, recognized in the labour market;

3) Sectoral Qualifications Framework is a structured description of qualification levels, recognized in the industry;

4) Professional standard is the standard that defines the requirements for qualification and competence, for content, quality and working conditions in a specific area of professional activity.

### **138-2. The structure of the National System of Qualifications**

The National System of Qualifications includes:

1) the National Qualifications Framework;

2) the Sectoral Qualifications Framework;

3) the Professional Standard

4) the evaluation of the professional training and the assessment of conformity of the specialist's qualification.

### **138-3. National Qualifications Framework**

1. National Qualifications Framework consists of a description for each qualification level of common characteristics of the professional activity.

2. Development and approval of the National Qualifications Framework are made by the authorized state body for labour in conjunction with the authorized state body in the sphere of education with regard to the opinion of the national employers' associations and the national associations of employees.

### **138-4. Sectoral Qualifications Frameworks**

1. Sectoral frameworks of qualifications are developed on the basis of the National Qualifications Framework in a particular sector of the economic activity.

2. Sectoral framework of qualifications classifies the requirements to the qualification of the specialist by levels according to the complexity of the work and the nature of use of knowledge, skills and competence in the industry.

3. Development and approval of the sectoral qualifications framework are made by the authorized state bodies of the respective spheres of activity with regard to the opinion of the National Chamber of Entrepreneurs of the Republic of Kazakhstan, industrial associations of employers and the industrial associations of employees.

**Footnote. Article 138-4, as amended by the Law of the Republic of Kazakhstan dated 04.07.2013 No.130-V (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **138-5. Professional standards**

1. Development of professional standards is made by the authorized state bodies of the respective spheres of activity together with the National Chamber of Entrepreneurs of the Republic of Kazakhstan, industrial associations of employers and the industrial associations of employees.

2. The structure, the procedure for development, review, approval and implementation of professional standards are determined by the authorized state body for labour in consultation with the national associations of employers and the national associations of employees.

3. The authorized state bodies of the respective spheres of activity in consultation with the authorized state for labour and in the manner prescribed by them, approves the professional standards.

4. The authorized state body for labour keeps the Register of professional standards in the stated form.

Footnote. Article 138-5, as amended by the Law of the Republic of Kazakhstan dated 04.07.2013 No.130-V (shall be enforced upon expiry of ten calendar days after its first official publication).

### **138-6. Evaluation of the professional training and assessment of conformity of the specialist to the qualification**

1. Compliance of the specialist is based on the assessment of conformity to the qualification, which is carried out by the accredited organizations in the manner provided by the laws of the Republic of Kazakhstan.

2. Approval of the procedure for conformity and the assignment of qualification to the specialist are carried out by the authorized bodies of the respective spheres of activity with regard to the opinion of the national associations of employers and associations of employees.

## **Chapter 11. PROFESSIONAL TRAINING, RETRAINING AND ADVANCED TRAINING**

### **139. The concepts used in this chapter**

In this chapter, the following terms are used:

1) a training contract is a written agreement between the employer and the student on the conditions of professional training, retraining and advanced training;

2) a professional training is a form of professional education, aimed at personal development for the acquisition of new or modified professional skills required to perform a particular type of work;

3) a re-training is a form of professional training that allows to acquire another occupation or profession;

4) an advanced training is a form of professional training that allows to maintain, expand, deepen and develop the previously acquired professional knowledge, skills and abilities.

### **140. The rights and obligations of the employer to training, retraining and advanced training**

1. The employer defines the need and the amount of training, retraining and advanced training for operation and development of the organization.

2. The employer provides training, retraining and advanced training of the employees and other persons, who are not in labour relations with him (her) (further - the student):

1) directly in the organization;

2) in educational institutions, implementing educational programs for technical and professional education, post-secondary, higher and postgraduate education;

3) in other organizations, engaged in professional training, retraining and advanced training.

3. The employer must establish to the employees, taking a course of professional training, retraining and advanced training the conditions for combining the work with the training, provided by this Code, agreements, collective and labour contracts.

4. Employer promotes education organizations, implementing educational programs of technical and vocational education, training, retraining and advanced training.

**Footnote. Article 140, as amended by the laws of the Republic of Kazakhstan of July 27, 2007 N 320 (the order of enforcement see Article 2) dated 17.02.2012 No. 566 -IV (shall be enforced upon expiry of ten calendar days after its first official publication), dated 04.07.2013 No.130-V (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **141. Professional training, retraining and advanced training in educational institutions by the direction of the employer**

1. Professional training, retraining and advanced training of students, who are sent by the employer in educational institutions are made at the expense of the employer or other means, not prohibited by the legislation of the Republic of Kazakhstan in accordance with the contract of training.

2. The agreement, collective and (or) labour contracts may provide the benefits and the compensation payments, related to training.

#### **142. Professional training, retraining and advanced training of employees in the organization**

1. The employer provides professional training, retraining and advanced training of the employees in the organization.

2. The employer determines the forms of professional training, retraining and advanced training.

3. The Government of the Republic of Kazakhstan establishes the general requirements for professional training, retraining and advanced training of personnel in the organization.

#### **143. The rights and obligations of the employees on professional training, retraining and advanced training**

1. Employees have the right to professional training, retraining and advanced training, including training for new professions and occupations.

2. Employees may be exempted from work by agreement with the employer in professional training, retraining and advanced training or shall perform the work on a part-time.

3. Employees in professional training, retraining and advanced training, enjoy the guarantees provided by this Code, the collective and labour contracts.

4. Upon completion of professional training, retraining and advanced training, the employee is obliged to work for the employer during the period, agreed by the parties in the contract of training.

5. In case of termination of the labour contract before the date, specified in the contract of training on the initiative of the employee or due to the fault of the employer, the employee reimburses the employer the cost of his (her) education, proportionally to the unfinished term of labour-rent.

#### **144. The content of the contract of training**

The contract of training shall contain:

- 1) the identification of the specific profession and the qualifications, acquired by the student;
- 2) the rights and obligations of the employer and the student;
- 3) the period of training and the work repayment period to the employer after the training;
- 4) the guarantees and compensation payments related to training;
- 5) the responsibility of the parties.

2. Training contract may include other conditions, provided by agreement of the parties.

### **Chapter 12. EMPLOYMENT**

#### **145. State guarantees for employment**

In the sector of employment, the State shall guarantee to the citizens:

- 1) protection from all forms of discrimination and ensuring equal access to the profession and work;
- 2) professional training, retraining and advanced training of unemployed, employed and those, who are engaged in a care about the children under seven years, among low-income persons, as well as the organization of public works for unemployed;  
2-1) *is terminated from 01.01.2011 in accordance with the Law of the Republic of Kazakhstan dated 05.05.2009 N 159-IV;*
- 3) promotion of the development of small business and entrepreneurship;
- 4) organization of the labour intermediation through the authorized body for employment and the private employment agency;
- 5) providing the professional and orientational services, the information about available jobs and vacancies;
- 6) orientation system of professional education for training of specialists, who are in demand in the labour market;
- 7) interregional labour reallocation in accordance with the documents of the State planning system of the Republic of Kazakhstan;



8) development and implementation of the measures to detect and legalize the labour relations;

9) determination of the duties for the investors for professional training, creation of new and maintain the existing jobs in the investment contracts;

10) creation of conditions for the development of professional training, retraining and advanced training in the organization;

11) cooperation of the authorized bodies for the issues of employment with the employers;

12) ensuring the conditions for the employment of persons, belonging to the target groups.

**Footnote. Article 145, as amended by the Law of the Republic of Kazakhstan dated 05.05.2009 No. 159-IV (the order of enforcement see Article 2), dated 03.07.2013 No. 124-V (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **146. Citizens' rights in the field of employment**

Citizens have the right to:

1) free choice of occupation and profession through a direct appeal to the employers, as well as through labour intermediation of the authorized body for employment or the private employment agencies, providing the assistance in job placement;

2) independent search of work and employment, including abroad;

3) getting the advice and information in the authorized bodies for employment and the private employment agencies;

4) participation in public works.

#### **147. The rights and obligations of the employer in the employment**

1. The employer has the right to:

1) recruitment;

2) obtain the correct, complete and current information about the labour market and the training opportunities in the authorized bodies for employment.

2. The employer is obliged to provide information to the authorized body for employment about:

1) the upcoming release of the employees in connection with the liquidation of the employer-legal entity or the termination of business of the employer-individual, or the reduction of the staff, the number and the categories of employees, whom it may concern, indicating the positions and the professions, specialties, qualifications and wages of the redundant employees and the terms, during which they will be released, no less than two months before the release;

2) the upcoming change of the working conditions in the transition of employees to part-time due to changes in the organization of production, including the reorganization, and (or) the reduction of the amount of work of the employer for at least one month;

3) the availability of jobs (vacancies), within three working days of their occurrence;

4) the employment or refusal to hire the people (indicating the reason by a remark in the direction), within five working days of the date of their direction by the authorized body.

3. The employer provides the information on the employment of persons and (or) the termination of the labour relations with persons, that are not local residents to the Internal Affairs bodies within a month. The order and form of information is determined by the Ministry of Internal Affairs.

**Footnote. Article 147, as amended by the laws of the Republic of Kazakhstan dated 05.05.2009 No. 159-IV (the order of enforcement see Article 2); dated 22.07.2011 No. 478-IV (shall be enforced upon expiry of ten calendar days after its first official publication), dated 13.06.2013 No. 102-V (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **148. Labour mediation**

The authorized body for employment or the private employment agency carry out the labour mediation through:

1) information of the citizens about the possibility of getting a job and the employers on the possibility of labour supply;

2) assistance to citizens in the choice of work;

3) sending the citizens to the employer for the employment on the vacant position;

4) buildup of the data bank on the labour market;

5) accounting and registration of the applied citizens;

6) provision of services in professional orientation;

7) cooperation with the employers on employment on the basis of the contracts.

### **Chapter 13. GUARANTEES AND COMPENSATION PAYMENTS**

#### **149. The guarantees, when the employees perform the state or public duties**

1. The employer shall exempt the employees from performing work duties at the time of bringing them to the state or public duties, in the cases provided by the laws of the Republic of Kazakhstan, with preserving them the workplace (position).

2. For the performance of the state and public duties, the wage is paid to the employee at the place of performance of these duties, but not lower than the average salary at the basic work.

3. The employee, who had served the military service, has the priority right when applying for a job at the same company where he had worked, before being called up for the military service.

**150. The guarantees for the employees, sent for medical examination**

At the time of the periodic medical examinations at the expense of the employer, for the employees, who are obliged to pass it in accordance with this Code or the collective contract, the job (position) and the average wages are retained.

**151. The guarantees for the employees, who are donors**

For the employee, who is the donor, at the time of the survey and giving (donations ) blood and blood components, the job (position) and average wage are retained, and other guarantees are provided in accordance with the laws of the Republic of Kazakhstan in the field of health.

**Footnote. Article 151, as amended by the Law of the Republic of Kazakhstan dated 16.07.2009 No. 186.**

**152. The guarantees and compensation payments for employees, who are sent to business trip**

1. During a business trip, the job (position) and the wages are retained for the employee.

2. The employees, who are sent on business trips are paid:

- 1) the daily benefit, for calendar days of a business trip, including travel time;
- 2) the cost of travel to the destination and back;
- 3) the accommodation expenses.

3. The conditions and terms of the direction for business trip of the employees are defined in the labour and collective contracts or in the act of the employer.

4. The employees' direction to business trips is subjected to the restrictions, provided in Articles 183, 187 and 226 of this Code.

**153. The guarantees and compensation payments, when transferring the employee to another location together with the employer**

1. When transferring the employee to work in another location together with the employer, the employer shall reimburse the employee the cost of:

- 1) moving of the employee and his (her) family;
- 2) transportation of property of the employee and his (her) family.

2. The order and amount of compensation payments, provided in paragraph 1 of this Article shall be defined by the labour and collective contracts or the act of the employer.

**154. The guarantees for employees, engaging in labour activities in the areas of environmental disaster and radiation risk**

The guarantees for the employee, engaging in labour activities in the areas of environmental disaster and radiation risk, are established by the laws of the Republic of Kazakhstan.

**155. Compensation payments in connection with using by the employee of his personal property in the interests of the employer**

When using the personal property by the employee for the benefit of the employer and with his (her) consent, the employer shall pay the compensation payments for use, wear and tear (amortization) of the instrument, personal transport and other facilities, and the cost of their operation by agreement of the parties.

**156. Compensation payments for the employees, in cases when their work takes place on the way or has the travelling character or related to official journey within the service area**

1. The employees, when their work takes place on the way or has the travelling character or related to official journey within the service area, are made the compensation payments for each day spent away from their homes in accordance with the agreement, collective and labour contracts and (or) the acts of the employer.

1-1. The employees, whose regular work takes place on the way or has the travelling character or related to official journey within the service area, are the employees of railway, river, sea, road transport, civil aviation, auto-roads, telecommunication lines and structures on them, radio links and structures on them, overhead power lines and structures on them, communication facilities and the employees, serving the state border of the Republic of Kazakhstan.

2. If the employees are on the road not all the working days of the month, the payment is made in proportion to the actual number of days of travel to the place of work (production work) and back.

3. Compensation payments are made regardless of the mode of work and rest organization.

4. Compensation payments are not counted, in case of calculating the average wage of employees of the organizations.

**Footnote. Article 156, as amended by the laws of the Republic of Kazakhstan dated 10.12.2008 N 101-IV (shall be enforced from from 01.01.2009); dated 13.02.2012 No. 553-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

**157. Compensation payments for the loss of work**

1. The employer makes compensation payments for the loss of work in the amount of the average wage for a month in the following cases:

1) termination of the labour contract by the employer, in the event of liquidation of the employer – a legal entity or termination of the activity of the employer – an individual;

2) termination of the labour contract by the employer, in in case of staff redundancy.

2. The employer pays the compensation payments to the employee for the loss of work in the amount of the average salary for three months in the termination of the labour contract by the employee, if the employer provides false information about working conditions in the conclusion of the labour contract or the employer's violation of labour legislation of the Republic of Kazakhstan, the conditions of labour and collective contracts.

3. The labour and collective contracts may provide a higher amount of compensation payment for the loss of work.

### **158. The procedure and terms of payment of the field provisions**

1. Field provisions are paid to the employees of geological, topographic and geodetic, survey organizations, performing the work in the field:

1) away from their permanent residence, without the daily return to a permanent place of residence;

2) away from their permanent residence, but with the daily return to the site of a field organization, that is not a permanent place of residence;

3) away from their permanent residence, through the organization of labour on a rotational basis.

2. Payment of field provisions is made for all calendar days of staying in the field work.

3. Field provisions shall not be paid to the employees for the time, spent in the annual paid leave.

4. When leaving of the employee from the field organization on a business trip, the payment of field provisions to him (her) is terminated and the costs, associated with the trip will be reimbursed in accordance with this Code.

5. The amount of field provisions is not included in the calculations of the average wage of the employees of organizations.

6. The procedure, conditions of payment and the amount of field provisions and the track of time of work in the field are established in the agreements, collective and labour contracts and approved by the act of the employer.

7. When working in the field, the payment of field provisions to an employee for the weekend is made, depending on where he (she) spends them (at the facility, on the site of the field work, on the basis of the field organization, outside the place of work). This procedure can be applied regardless of the accepted forms of the organization of labour and the schedule of work and rest.

### **159. Payment of social benefits to the employees, at the expense of the employer**

1. The employer must pay social benefits for temporary disability at his (her) own expense to the employees.

2. The work incapacity certificates, issued in the manner approved by the Government of the Republic of Kazakhstan shall be the basis for the payment of social benefits for temporary disability.

3. The social benefits for temporary disability are paid to the employees from the first day of disability until the day of rehabilitation or until the establishment of disability, at the rate of their average salary, calculated in accordance with the laws of the Republic of Kazakhstan.

3-1. Temporary disability benefits will not be paid:

1) to the employee, the temporary incapacity of which was due to injuries, occurred in the commission of a crime, if he (she) found guilty by a valid court sentence;

2) during the compulsory treatment of the employee by a court (except for the mentally ill);

3) for the time of the employee's arrest and during the forensic medical examination, if he (she) is found guilty by a valid judgment or decree of the court;

4) during the employee's temporary incapacity from illness or injury, occurring as a result of alcohol, drugs and toxicology means;

5) for the days of temporary incapacity, attributable to paid annual leave.

4. The amount of social benefits, the order of appointment and payment are determined by the Government of the Republic of Kazakhstan. The employers may establish the additional payments to the employees for social benefits, established by the legislation of the Republic of Kazakhstan.

**Footnote. Article 159, as amended by the laws of the Republic of Kazakhstan dated 19.12.2007 N 9-IV (the order of enforcement see Article 2); dated 05.05.2009 N 159-IV (the order of enforcement see Article 2); dated 05.07.2011 No. 452-IV (coming into force from 13.10.2011); dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

## **Chapter 14. MATERIAL LIABILITY OF THE PARTIES OF THE LABOUR CONTRACT**

### **160. The duty of the party of the labour contract to compensate for the damage (harm)**

1. The party of the labour contract that caused damage (harm) to the other party shall compensate it in accordance with this Code and other laws of the Republic of Kazakhstan.

2. The labour and collective contracts may define the material liability of the employee and the employer.

3. The termination of the labour contract after the damage (harm), shall not entail to the release of the party of the labour contract from the material liability for compensation of the damage (harm) to the other party.

### **161. The terms of the material liability of the party of the labour contract for damage (harm)**

1. The material liability of the party of the labour contract for the damage (harm) caused to other party of the labour contract, shall be for the damage (harm) caused by the wrongful conduct of guilty (action or inaction) and the causal connection between the wrongful conduct of guilty and the damage (harm), unless otherwise provided by this Code and other laws of the Republic of Kazakhstan.

2. The employer shall be materially liable to the employee:

1) for damage caused by the unlawful deprivation of the employee the opportunity to work at the workplace;

2) for damage to the property of the employee;

3) for damage to life and (or) health of the employee.

3. The employee shall not be materially liable to the employer:

1) for damage, caused by the loss or damage to the property of the employer;

2) for damage, caused as a result of the action (or inaction) of the employee.

4. The employer and the employee have a mutual material liability in other cases established by the collective and labour contracts.

### **162. Material liability of the employer for the damage, caused to the employee by unlawful deprivation of him (her) of the opportunity to work**

1. The employer shall reimburse the employee with not received salary and other benefits due to him (her) in the event of unlawful transfer to another job, to prevent the employee to the workplace, unilateral changes in the terms of the labour contract, dismissal from work and unjustified termination.

2. The labour and collective contracts, acts of the employer agreed with the employee representatives, may establish the additional cases for employer's compensation for the damage, caused by the unlawful deprivation of the employee the opportunity to work.

### **163. Material liability of the employer for the damage to the property of the employee**

The employer, caused the damage to the property of the employee, must reimburse it in full, in accordance with the conditions of the labour and collective contracts.

### **164. Material liability of the employer for damage to life and (or) health of the employee**

1. In case of damage to life and (or) health of the employee in the performance of labour duties, the employer must compensate the damage to the amount provided by the civil legislation of the Republic of Kazakhstan.

2. The damage under paragraph 1 of this Article shall be reimbursed in full in the absence of the insurance benefits of the employee. In the presence of insurance payments, the employer shall reimburse the employee the difference between the insured amount and the actual amount of damage.

3. The order for the employers to compensate for the damage to life and (or) health of the employees, is defined by the legislation of the Republic of Kazakhstan.

### **165. Material liability of the employee for the damage to the employer**

1. Material liability of the employee for the damage, caused to the employer shall be in the cases and in the amounts, provided in this Code.

2. The employee must reimburse the direct actual damage caused to the employer.

3. The employee's liability for the damage caused to the employer, is excluded if the damage was caused as a result of force majeure or emergency, necessary defense, as well as non-fulfillment of the employer the obligation to provide the appropriate conditions for the preservation of the property transferred to the employee.

4. The imposition of the liability for the damage is prohibited on the employee, which can be considered as a normal production and economic risk.

5. The employer is obliged to create the conditions to the employees, which are necessary for the proper operation and ensuring full safety of the property entrusted to them.

6. Under the direct actual damage means a real decrease in the cash assets of the employer or the deterioration of the property (including the property of third parties, which is in the possession of the employer, if the employer is responsible for the safety of the property), and the need to make any unnecessary expenses or extra payments for purchase or restoration of the property for the employer.

### **166. Limits of material liability of the employee**

For damage, the employee carries the material liability within his (her) average monthly salary, unless otherwise provided in this Code.

### **167. Cases of full material liability of the employee for damage to the employer**

Material liability in the full amount of the damage, caused to the employer is imposed to the employee in the following cases:

1) failure to preserve property and other assets, transferred to the employee on the basis of a written contract of acceptance of the full liability;

2) failure to preserve property and other assets, received by the employee under account by one-time document;

3) damage in the state of alcohol, drug or inhalant intoxication (their analogues);

4) deficiencies, intentional destruction or willful damage to materials, semi-products, goods (products), including in their manufacture, as well as tools, measuring instruments, protective clothing and other items, issued to use by the employer to the employee;

5) damage by the illegal actions of the employee, confirmed in accordance with the legislation of the Republic of Kazakhstan.

### **168. Contracts for the full individual and collective (joint) material liability**



1. The employee, taking the position or performing the work related to storage, processing, sale (realization), transport, use or other use in the production of the property and the values transferred to him (her), and the employer shall conclude a written contract for full individual material liability of the employee for failure to preserve the property and other assets transferred to the employee.

2. The employees, who jointly perform the work related to storage, processing, sale (realization), transport, use or other use in the production of the property and the values transferred to them, when it is not possible to distinguish the material liability of each employee for the damage, and the employer shall conclude a written contract of full collective (joint) liability of the employees for failure to preserve the property and other assets transferred to the employees.

3. The contracts for the full individual or collective (joint) liability may be made at the conclusion of the labour contract and in addition to the labour contract.

4. The list of positions and jobs, held or performed by employees, with whom may be concluded the contracts for full individual and collective (joint) liability for failure to preserve the property and other assets transferred to the employees, as well as the standard contract of full liability shall be approved by the collective contract (if available) or the acts of the employer.

#### **169. The procedure for compensation for damage (harm) of the parties of the labour contract**

The party of the labour contract that caused damage (harm) to the other party, shall reimburse it in the amounts established by this Code and the laws of the Republic of Kazakhstan, on the basis of the decision of the court or voluntarily.

### **Chapter 15. CONSIDERATION OF INDIVIDUAL LABOUR DISPUTES**

#### **170. Bodies for the consideration of individual labour disputes**

1. Individual labour disputes are considered by the conciliation commissions and (or) by the courts.

2. Individual labour disputes are considered by the conciliation commission at the request of the party of the labour dispute.

3. The parties of the labour contract at their choice may apply directly to the court for resolution of an individual labour dispute.

#### **171. Forming the conciliation commission and organization of its work**

1. The conciliation commission shall be created on a parity basis of an equal number of representatives of the employer and the employees.

2. The quantitative composition of the members of the conciliation commission, the order of its work and the term of power of the conciliation commission shall be established by agreement between the employer and the employees at the general meeting (conference) of employees.

3. Members of the conciliation commission from the employees are elected by the general meeting (conference) of the employees. Members of the conciliation commission from the employer shall be appointed by the act of the employer. Members of the conciliation commission at the first constitutive meeting shall elect a Chairman and a Secretary by a majority vote.

4. The conciliation commission shall consider the labour dispute within seven days from the date of application.

5. The conciliation commission shall take a decision after consideration and issue it to the applicant within three working days from the date of its adoption.

### **172. The dates of application to the body for the consideration of individual labour disputes**

The following dates shall be established for the application to the bodies for the consideration of individual labour disputes:

1) on the disputes for reinstatement in a job - three months from the date of giving the copy of the act of the employer to terminate the labour contract;

2) on other labour disputes – a year from the day, when the employee or the employer knew or should have known about the violation of his (her) rights.

### **173. Competence of the Conciliation Commission in labour disputes**

The Conciliation Commission is a body for the consideration of labour disputes in the organizations, with the exception of disputes for which another procedure is established by this Code and other laws of the Republic of Kazakhstan.

The Conciliation Commission shall consider the labour dispute, if the employee personally or with the participation of a representative does not resolve the disagreement in direct negotiations with the employer.

### **174. The procedure for the consideration of labour dispute in the conciliation commission**

The commission must register the application, submitted to the conciliation commission.

The conciliation commission shall consider the labour dispute within seven calendar days from the date of application.

The dispute shall be considered in the presence of the applicant or his (her) authorized representative. The consideration of dispute in the absence of the employee or his (her) representative shall be allowed only with his (her) written statement. In the case of non-appearance of the employee or his (her) representative to the meeting of this commission, the consideration of the labour dispute shall be delayed. In the case of the secondary non-appearance of the employee or his (her) representative without a good reason, the conciliation commission may decide to remove the issue from consideration, which does not deprive the employee from the right to apply for re-examination of the labour dispute within the time prescribed by this Code.

The conciliation commission has the right to call witnesses and invite experts to the meeting. At the request of the commission, the Head of the organization shall submit the necessary documents to it within the established time.

The meeting of the conciliation commission shall be valid, if it is attended by at least half of the members, representing the employees, and at least half of the members, representing the employer.

At the meeting of the conciliation commission the minutes, which are signed by the Chairman or his (her) deputy shall be.

#### **175. Decision making procedure of the conciliation commission and its content**

The conciliation commission shall decide by a simple majority vote of the commission members. At the request of the applicant or a member of the commission, voting shall be taken in secret.

The decision of the conciliation commission shall include:

the name of the organization (division), the surname, first name and patronymic, position, profession or specialty of the appealed to the commission employee;

the date of application to the commission and consideration the dispute, the existence of a dispute;

the surnames, first names and patronymics of the members of the commission and other persons presenting at the meeting;

the subject of the solution and its justification (with reference to the law or other regulatory legal act);

the results.

Duly certified copies of the decision of the conciliation commission are given to the employee and the head of the organization, within three days from the date of the decision.

#### **176. Execution of the decisions of the conciliation commission**

The decision of the conciliation commission shall be executed within the established period.

In case of non-execution of the commission's decision within the prescribed period, the employee or the employer has the right to resolve a labour dispute in a court.

#### **177. Reinstatement of an employee at work, by the body considering the individual labour dispute**

1. In the event of termination of the labour contract without legitimate reason or illegal transfer to another job, move to another work space, changes in working conditions dismissal from work, the body considering the individual labour dispute shall make a decision to restore the employee to the same job, except in cases provided in paragraph 3 of this Article.

2. The employee, who was restored at previous work, shall be paid the average salary paid for all the time of enforced idleness (suspension from work), or the

difference in salary for the time of execution of lower paid job, but no more than six months.

3. At the request of the employee, the body considering the individual labour dispute, may be limited by making a decision on the payment to the employee wages in the amount, specified in paragraph 2 of this Article.

4. The decision of the body considering the individual labour dispute to restore the employee to his (her) previous job shall be executed immediately. At a delay of the execution of the decision on reinstatement by the employer, the body considering the individual labour dispute shall decide to pay the employee the average salary or the wage differences for delay of execution of the decision.

### **SECTION 3. SPECIFICS OF LABOUR REGULATION OF CERTAIN CATEGORIES OF EMPLOYEES**

#### **Chapter 16. SPECIFICS OF LABOUR REGULATION OF EMPLOYEES UNDER THE AGE OF EIGHTEEN**

##### **178. The rights of employees, under the age of eighteen at work**

Employees, who have not reached the age of eighteen, in the labour relations have the same rights as adults, but in the field of protection of labour, working hours, rest and other working conditions shall enjoy additional guarantees provided in this Code.

##### **179. Works, where the labour of employees, who have not reached the age of eighteen are prohibited**

1. The employment of employees under the age of eighteen, in heavy work or work under harmful (particularly harmful) and (or) hazardous working conditions, as well as work which can be detrimental to their health and moral development (gambling, work at nightlife, production, transportation and sale of alcoholic beverages, tobacco products, drugs, psychotropic substances and precursors) is prohibited.

2. Carrying and movement by the employees, under eighteen years of age, the weight, which exceeds their limits are prohibited.

3. *Is excluded by the Law of the Republic of Kazakhstan dated 05.07.2011 No. 452-IV (shall be enforced from 13.10.2011).*

**Footnote. Article 179, as amended by the Law of the Republic of Kazakhstan dated 05.07.2011 No. 452-IV (shall be enforced from 13.10.2011).**

##### **180. Compulsory medical examination of the employees under the age of eighteen**

The labour contracts with employees under eighteen years of age are concluded only after the compulsory preliminary medical examination. Later, the employees until eighteen years of age shall be subjected to mandatory annual medical examination.

##### **181. Working hours for the employees under the age of eighteen**

For employees, under the age of eighteen, the shorter working hours are established

:

1) for employees under the age of fourteen to sixteen years - no more than 24 hours a week;

2) for employees between the ages of sixteen and eighteen years - no more than 36 hours a week;

3) for students of educational institutions, who combine study and work in an academic year, at the age of fourteen to sixteen years - 2.5 hours per day, at the age of sixteen to eighteen years - 3.5 hours a day.

### **182. Remuneration for labour and working standards for the employees under the age of eighteen**

1. Payment for labour of the employees, under the age of eighteen will be paid by taking the shorter working hours into account.

2. Working standards for the employees, under the age of eighteen years shall be determined on the basis of common standards for employees in proportion to the shorter working hours, established in Article 181 of this Code.

3. For the employees, under the age of eighteen, who start to work after graduating from the secondary, technical and professional education organizations and with professional training in the workplace, the reduced working standards may be established.

4. The employer can pay extra payments to the level of remuneration for employees with a full working day to the employees under the age of eighteen,.

**Footnote. Article 182, as amended by the Law of the Republic of Kazakhstan of 27 July, 2007 N 320 (the order of enforcement see Article 2).**

### **183. Features of work and rest for the employees, under the age of eighteen**

Engaging the employees, under the age of eighteen to work at night, overtime, work with calculation of the total working time, and send them on a business trip and to the work, done on a rotational basis, as well as withdraw them from annual paid leave, is prohibited.

### **184. Limitation of the material liability of the employees, under the age of eighteen**

Conclusion of the contract on full material liability with employees under the age of eighteen is prohibited.

## **Chapter 17. FEATURES OF LABOUR REGULATION OF WOMEN AND OTHER PERSONS WITH FAMILY RESPONSIBILITIES**

### **185. Limitation for termination of the labour contract**

**Footnote. Title of Article 185, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

1. Termination of the labour contract on the initiative of the employer with pregnant women, women with children under three years old, single mothers raising a

child under the age of fourteen (disabled child under eighteen years of age), other persons bringing up such children without a mother, is not allowed, except in cases provided in subparagraphs 1), 3) - 18) of paragraph 1 of Article 54 of this Code.

2. If on the expiry of the term of the labour contract, a woman will present a medical report on pregnancy of twelve or more weeks, except replacement of the absent employee, the employer shall extend the term of the labour contract on the day of termination of leave to care for a child up to the age of three years upon her written request.

**Footnote. Article 185, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **186. The works, for which the employment of women is prohibited**

1. The employment of women in heavy work or work under harmful (particularly harmful) and (or) hazardous working conditions is prohibited, according to the list of jobs for which, the employment of women is prohibited.

2. Lifting and moving heavy objects by hand for women, that exceed their limits is prohibited.

3. *Is excluded by the Law of the Republic of Kazakhstan dated 05.07.2011 No. 452-IV (shall be enforced from 13.10.2011).*

**Footnote. Article 186, as amended by the Law of the Republic of Kazakhstan dated 05.07.2011 No. 452-IV (shall be enforced from 13.10.2011); dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **187. Features of work and rest for women and other persons with family responsibilities**

1. The employer is not entitled to engage pregnant women to work at night, work on weekends and public holidays, overtime work and send them on a business trip, withdraw them from annual paid leave.

2. The employer is not entitled to engage to night work, overtime work, and send on a business trip and the work, which is done in a rotational basis, without the written consent:

1) the women with children under the age of seven, and other persons caring for children under the age of seven years without a mother;

2) the employees, who are taking care of sick family members or disabled children, if the children under three years old, disabled children or sick family members are in need of constant care on the basis of the medical report.

### **188. Child feeding breaks**

1. Apart from a break for rest and meals, breaks between shifts and special breaks, women with children up to eighteen months and fathers (adoptive parents) with

children aged up to eighteen months without a mother, are provided by additional breaks for feeding the child (children) at least every three hours in the following duration:

- 1) with one child - every break of at least thirty minutes;
- 2) with two or more children - every break of at least one hour.

2. Breaks for feeding the child (children) at the request of an employee, specified in paragraph 1 of this Article, are joined to breaks for rest and meal, or the summarized breaks are given at the beginning or end of the working day (shift).

3. Breaks for feeding the child (children) are included in the working time. During breaks for women (fathers, adoptive parents), the average salary is remained.

### **189. Establishment of part-time work for women and other persons with family responsibilities**

The employer, upon a written request of the pregnant woman, one of the parents (adoptive parents), the person with a child (children) under the age of three years and the employee caring for a sick family member in accordance with the medical report, shall give them a part-time job.

**Footnote. Article 189, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **190. Limitation to use the calculation of the total working hours for pregnant women**

Using the calculation of the total working hours for pregnant women is not allowed, if the duration of the working day (shift) exceeds eight hours.

### **191. Temporary transfer of the pregnant women to another job**

The employer, on the basis of a medical report must transfer the pregnant woman to another job, which excludes the impact of harmful and (or) hazardous working environment, with preserving the average wage.

Prior to the provision of the pregnant women with another job, excluding the impact of unfavorable factors of production, she shall be released from work with preservation of the average wage for all the missed working days at the expense of the employer.

**Footnote. Article 191, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **194-1. Features of payment of maternity leave, vacation to employees that adopt a newborn child (ren)**

The employer pays maternity leave, vacation to employees that adopt a newborn child (ren), with preservation of the average wage, if it is provided by the terms of an employment and (or) a collective agreement, an act of the employer, less the amount of social benefits in case of loss income due to pregnancy and childbirth, adoption of a



newborn child (ren), carried out in accordance with the legislation of the Republic of Kazakhstan on compulsory social insurance.

Footnote. Chapter 17 is supplemented by Article 194-1 in accordance with the Law of the Republic of Kazakhstan dated 04.02.2013 No. 75-V (shall be enforced upon expiry of ten calendar days after its first official publication).

#### **192. The guarantees for women, in establishing the order to provide an annual paid leave**

Before maternity leave or immediately after it or at the end of a child care leave, a woman is granted with an annual paid leave by her wish.

#### **193. Maternity leave**

Footnote. Title of Article 193, as amended by the Law of the Republic of Kazakhstan dated 19.12.2007 No. 9-IV (the order of enforcement see Article 2).

1. Women at their request and on the basis of a duly issued certificate of incapacity are granted a maternity leave of seventy calendar days before the birth and fifty-six (in the case of difficult birth or the birth of two or more children - seventy) calendar days after birth, unless otherwise provided by the laws of the Republic of Kazakhstan.

2. The calculation of leaves shall be performed totally, and the leave is granted to a woman completely, independent from the number of days actually used before the birth and the duration of work to the employer.

Footnote. Article 193, as amended by the Laws of the Republic of Kazakhstan dated 19.12.2007 N 9-IV (the order of enforcement see Article 2); dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

#### **194. Leave to the employees, who adopted newborn children**

The employees, who have adopted a newborn child (children), are provided (one of the parents) with a leave for the period from the date of adoption and before the expiration of fifty-six days after the birth.

Footnote. Title of Article and Article, as amended by the Law of the Republic of Kazakhstan of 19 December, 2007 No. 9-IV (the order of enforcement see Article 2).

#### **195. Unpaid vacation for childcare**

1. The employer is obliged to grant the employee an unpaid vacation for a childcare , under the age of three years:

- 1) at the choice of parents – to mother or father of the child;
- 2) to the parent, who one raising a child;
- 3) to grandmother, grandfather, other relatives, actually nurturing a child, who is residual without parents or a guardian;
- 4) to an employee, who adopts a newborn child (children).



2. The unpaid vacation for the childcare under the age of three years may be used in full or in part by a written statement of an employee, specified in paragraph 1 of this Article, at his (her) option.

3. During the unpaid vacation for the childcare under the age of three, the job is retained to the employee (position).

4. The time of unpaid vacation for the childcare under the age of three is included in the general labour experience, seniority in the specialty, unless otherwise provided by the laws of the Republic of Kazakhstan.

5. In case of return to work, before the end of unpaid vacation for the childcare under the age of three years, the employee must notify the employer of his (her) intention for a month prior to start the work.

**Footnote. Article 195, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

## **Chapter 18. FEATURES OF LABOUR REGULATION OF EMPLOYEES, WHO WORK IN TWO OR MORE JOBS**

### **196. The labour contract on part-time work**

1. The employee has the right to conclude the labour contract on part-time work as with a single employer, with whom he (she) has a labour relationship (as their main place of work), and with several employers.

2. The labour contract on part-time work is required to specify the fact that the work is part-time.

### **197. Additional documents, required to conclude a labour contract on part-time work**

For conclusion of the labour contract on part-time work with another employer, in addition to the documents specified in Article 31 of this Code, the employee shall give a statement of the nature and conditions of employment on the main job (job, position, working conditions).

### **198. Working hours in part-time work**

The total duration of daily work at their main place of work and part-time work, should not exceed the normal working day, provided in Article 82 of this Code for more than 4 hours.

### **199. Annual paid leave in part-time work**

1. The employees, working under the labour contract on part-time are given annual paid leaves simultaneously with the leave of their major work.

2. If the duration of annual paid leave under the labour contract on the part-time is shorter than the other leave for work, the employer at the request of the employee, holding a second job, grants him (her) a leave without pay for the days that make up the difference in the duration of the holidays.

## **200. Limitation to conclude the labour contract on part-time work**

The conclusion of the labour contract on part-time work with the employees under the age of eighteen, and the employees engaged in heavy work or work under harmful (particularly harmful) and (or) hazardous working conditions is not allowed.

## **201. Additional grounds for termination of the labour contract on part-time work on the initiative of the employer**

The labour contract on part-time work, in addition to the grounds provided in Article 54 of this Code, may be terminated by the employer in the event of conclusion of the labour contract with the employee, for whom this work will be the main one.

## **Chapter 19. FEATURES OF LABOUR REGULATION OF THE EMPLOYEES, ENGAGED IN HEAVY WORK, WORK IN HARMFUL (VERY HARMFUL) AND (OR) HAZARDOUS WORKING CONDITIONS**

### **202. Shorter working hours for employees, engaged in heavy work, work with harmful (particularly harmful) and (or) hazardous working conditions**

1. For employees, engaged in heavy work or work under harmful (particularly harmful) and (or) hazardous working conditions, shorter working hours no more than 36 hours a week are set.

2. List of industries, shops, professions and positions, list of heavy work, work in harmful (particularly harmful) and (or) hazardous working conditions, the work that gives the right to shorter working hours, and the order of its granting shall be determined by the authorized state body for labour in consultation with the authorized state body in the field of health.

**Footnote. Article 202, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **203. Additional annual paid leave**

Additional annual paid leaves are granted to the employees according to the list of productions, workshops, professions and positions, as well as the list of heavy work, work in harmful (particularly harmful) and (or) hazardous working conditions, the work in which gives the right to an additional annual paid leave. The duration of this type of leave, as well as the order of its granting shall be determined by the authorized state body for labour in consultation with the authorized state body in the field of health.

**Footnote. Article 203, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon the expiry of ten calendar days after its first official publication).**

### **204. Compensation for employees, engaged in heavy work, work with harmful (particularly harmful) or hazardous working conditions**

Compensation for employees, engaged in heavy work or work under harmful (particularly harmful) or hazardous working conditions, is set at a higher rate compared to the remuneration of employees in jobs with good working conditions, by setting high salaries (rates) or extra payments, but not lower than specified industry agreements or collective contracts, based on the minimum standards of wages in the legislation of the Republic of Kazakhstan..

List of industries, shops, professions and positions, list of heavy work, work in harmful (particularly harmful) and (or) hazardous working conditions, the work that gives the right to higher wages, and the order granting it, shall be determined by the authorized state body for labour in consultation with the authorized state body in the field of health.

Wage payment conditions, established in this Article apply to the employees whose work in hard, harmful (extremely hazardous) and hazardous conditions was confirmed by the results of assessment of workplaces.

**Footnote. Article 204, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **205. Providing with healthy and safe working conditions**

The employees of the organizations, under the terms of labour and at the expense of the employer, are given the special clothing, shoes and other personal protective equipment, cleaning and disinfecting materials, milk, healthful and dietary meals, which are not below the norms, established by the Government of the Republic of Kazakhstan.

**Footnote. Article 205, as amended by the Law of the Republic of Kazakhstan dated 05.07.2011 No. 452-IV (shall be enforced from 13.10.2011).**

### **Chapter 20. FEATURES OF LABOUR REGULATION OF EMPLOYEES, ENGAGED IN SEASONAL WORKS**

#### **206. Seasonal works**

Seasonal works are the works, which due to climatic or other natural conditions are performed within a certain period (season), but not more than one year.

#### **207. Features of conclusion of the labour contract with the seasonal workers**

1. The labour contract shall specify the condition on the conclusion of the contract for the performance of seasonal work and the certain period of its performance.

2. At the conclusion of the labour contract for seasonal work, the probation period in order to verify the compliance of the employee to the work entrusted him (her), shall not be established.

#### **208. Additional grounds for the termination of the labour contract with employees, engaged in seasonal work on the initiative of employer**

The labour contract with employees, engaged in seasonal works, in addition to the grounds provided in Article 54 of this Code, may be terminated by the employer in the case of:

1) suspension of work of the employer for more than two weeks for industrial reasons;

2) non-appearance of the employee to work for one month in a row due to a temporary incapacity.

### **209. Features of the termination of the labour contract with the employee, engaged in seasonal works**

1. The employee, engaged in seasonal works, has the right to terminate the labour contract on his (her) own initiative, with a written notice to the employer within seven calendar days.

2. The employer must notify the employee, engaged in seasonal works of the impending termination of the labour contract on the grounds provided in subparagraphs 1) and 2) of paragraph 1 of Article 54 of this Code, in a written form for seven days.

3. Upon termination of the labour contract with the employee, engaged in seasonal works, the employer shall pay the compensation for unused leave in proportion to the used time.

4. Upon termination of the labour contract with the employee, engaged in seasonal works due to the liquidation of the organization and staff redundancy, the terminal wages are paid in the amount of two-week average wage.

## **Chapter 21. FEATURES OF LABOUR REGULATION OF EMPLOYEES, WORKING ON A ROTATIONAL BASIS**

### **210. Features of work on a rotational basis**

1. Work on a rotational basis is a special form of the labour process, outside the place of residence of employees, when the daily return of them to a permanent place of residence cannot be provided.

2. The employer must ensure the employees, working on a rotational basis, in the period of their finding in the production facility by housing, and organize their food, to ensure their livelihoods, transportation to and from work, as well as the conditions for work and rest period between shifts.

The employer provides the conditions of staying of the employee in the production facility, in accordance with the labour and collective contracts.

**Footnote. Article 210, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **211. Restrictions for work on a rotational basis**

The employees under eighteen years of age, pregnant women, and people with disabilities of first and second groups are not allowed to go to work, done on a rotational basis. Other employees may be engaged to work performed on a rotational basis, if these works are not contraindicated to them on the basis of medical reports.

#### **212. Duration of a rotation shift**

1. Rotation shift is the period that includes the time of work at the site and the period of rest between shifts.

2. The duration of a rotation shift may not exceed fifteen calendar days.

At selected sites, the duration of rotation period from the written consent of the employee may be extended to thirty days in accordance with the labour and (or) collective contracts.

For members of ships' crews, with the employee's consent, the duration of rotation shift may be increased to one hundred and twenty days.

**Footnote. Article 212, as amended by the Law of the Republic of Kazakhstan dated 28.12.2010 No. 369-IV (shall be enforced upon expiry of ten calendar days after its first official publication); as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **213. Calculation of work time and rest time in working on a rotational basis**

1. The summarized calculation of working time in a month, a quarter or other longer period, but not more than one year is set in work under a rotation system.

2. An accounting period includes the working time, rest time, travel time to the location of the employer or from the collecting point to and from work. The total duration of working time for an accounting period shall not exceed the limit established by this Code.

3. Providing the annual paid leave in parts, during the rotational leave is not allowed.

4. The employer is obliged to keep the records of working time and rest time of each employee, working on a rotational basis, by month and for the entire accounting period.

### **Chapter 22. FEATURES OF LABOUR REGULATION OF HOUSEHOLD EMPLOYEES**

#### **214. Features of conclusion and termination of labour contract with household employees**

1. Domestic workers are the workers performing work (service providers) for employers – individuals in the household, which is conducted by one or more family members, if the work (services) performed not to generate income by the employer, and (or) for the employer.

2. The employer shall not issue the act on employment or termination of labour relations with household employees and make changes to his (her) work in the workbook.

3. Professional experience of household employee is confirmed by the labour contract.

4. Dates of written notice for termination (cancellation) of the labour contract with the household employee, and the cases and the size of compensation payments for the loss of work are established by the labour contract.

**Footnote. Article 214, as amended by the Law of the Republic of Kazakhstan dated 10.12.2013 No. 153-V (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **215. Working hours and rest periods of household employees**

1. Household employees are subjected to the norms of working hours and rest periods, established by this Code.

2. The mode of operation, the procedure for providing weekend, annual paid leave, bringing to overtime work, to work at night, on weekends and holidays of the household employee are determined by the labour contract.

### **216. The procedure for application and removal of disciplinary sanctions**

The procedure for application and removal of disciplinary sanctions in respect of a household employee is defined by the labour contract.

### **217. Resolution of individual labour disputes**

Individual labour disputes between the household employee and the employer are decided by agreement of the parties and (or) in the court.

### **218. Termination of the labour contract with a household employee**

Termination of the labour contract with a household employee shall be on the grounds provided in the labour contract.

## **Chapter 23. FEATURES OF LABOUR REGULATION OF HOMEWORKERS**

### **219. Homeworkers**

1. Homeworkers are the persons, who have concluded the labour contract with the employer on the execution of work at home with their own labour, materials and using their equipment, tools and devices or the tools allocated by the employer or purchased at the expense of the employer.

2. Performing the employee works at home can be set either at the conclusion of the labour contract, and during the term of the labour contract with making the appropriate changes to the labour contract.

### **220. The working conditions of homeworkers**



1. Home-based work may be performed only in cases, where they are not contraindicated to the employee for health reasons and for their execution, the requirements for safety and labour protection can be ensured.

2. The labour contract for performance of work at home shall provide the conditions about:

1) performance of work with using the equipment, materials, tools and devices belonging to the employee on the basis of the ownership right or allocated by the employer or purchased at the expense of the employer;

2) the manner and time of providing the employee with raw materials, materials, semi-finished goods to perform the work;

3) the manner and time of export of finished products;

4) the compensation and other payments to the employee.

## **221. The working hours and rest periods, the conditions for safety and labour protection of homeworkers**

Working hours and rest time, features of the employer's control over the compliance of the employee with the working hours, conditions for safety and labour protection and maintenance of these conditions for the employees, performing work at home, are defined in the labour contract.

## **Chapter 23-1. FEATURES OF LABOUR REGULATION OF EMPLOYEES, ENGAGED IN TELECOMMUTING**

**Footnote. Section 3, is supplemented by Chapter 23-1, in accordance with the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **221-1. Telecommuting**

Telecommuting is a special form of the labour process outside of the location of the employer with applying in the process of work the information and communication technologies.

## **Chapter 24. FEATURES OF LABOUR REGULATION OF DISABLED PERSONS**

### **222. Implementation of the right to labour by the disabled persons**

1. Disabled persons have the right to conclude labour contracts with employers on normal working conditions or in specialized organizations, where the labour of disabled is used.

2. Refusal to conclude a labour contract, transfer of the disabled to another job, changing the working conditions on the grounds of disability are not permitted, except in cases where by a medical report, his (her) health condition interferes with work duties or threatens his (her) health and (or) the safety of others.

Footnote. Article 222, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

### **223. The working conditions of disabled employees**

1. Conditions of norming, payment and work safety, working hours and the order of combining of professions (positions), technical, sanitary, hygienic, production and living conditions, as well as other conditions agreed by the parties in the labour and collective contracts can not worsen the situation or limit the rights of disabled employees compared to other employees.

2. The employment of disabled in heavy work or work under harmful (particularly harmful) or hazardous working conditions is prohibited.

3. Disabled employees can be provided by additional guarantees specified in this Code, agreements, acts of the employer, as well as labour and collective contracts.

4. Medical reports on part-time work, load reduction and other conditions of employment for disabled employees are mandatory to the employer.

### **224. Reduced working hours for disabled employees**

1. For disabled employees of first and second groups are set the reduced working hours, which are no more than 36 hours a week.

2. Duration of daily work (work shift) of disabled employees of first and second groups may not exceed seven hours.

### **225. Limitation to use the summarized recording of working time for disabled employees**

1. The summarized recording of working time shall not be allowed to use for disabled employees of first and second groups.

2. For disabled employees of the third group, the summarized recording of working time cannot be established, if such a regime is banned for them upon the medical reasons.

### **226. Restriction of night work, overtime work, and work on weekends and holidays, and business trips of disabled employees**

Attraction to work overtime, work at night, work on weekends and holidays and business trips of disabled employees are allowed only with their written consent, if such work is not forbidden to them upon the medical reasons.

### **227. Giving the annual paid leave to disabled employees**

Annual paid leave is granted to disabled employees in accordance with the vacation schedule, approved by the employer in consultation with them.

### **228. Giving the additional annual paid leave to disabled employees**

Additional annual paid leave is granted concurrently with annual paid leave, or at the wish of the disabled employee at another time of the year.



## **Chapter 25. FEATURES OF LABOUR REGULATION OF CIVIL SERVANTS**

### **229. Entry into civil service**

1. Entry into civil service is carried out in the order of appointment or by competition.

2. The competition is organized and conducted by the public institution, the public enterprise, having a vacant position.

3. The order of entry into civil service and the competition for the vacant position of a civil servant, are defined by the Government of the Republic of Kazakhstan.

4. Admission to the civil service shall be effected by the conclusion of the labour contract and the issuance of the act of the employer.

### **230. The list of positions of civil servants**

The list of positions of civil servants is determined by the Government of the Republic of Kazakhstan.

### **231. Limitations, associated with staying on civil service**

1. A civil servant shall not:

1) use for non-official purposes means of material and technical, financial, and information support, other state property and proprietary information;

2) participate in activities, precluding the normal functioning of the civil service and the performance of official duties;

3) use the official position for purposes, not related to the civil service;

4) disclose any information, constituting the state secrets, official and other legally protected secret, which became known him (her) during the period of the civil service.

2. A person, that has committed a crime of corruption cannot be entered into the civil service in the position, related to the performance of management functions.

**Footnote. Article 231, as amended by the Law of the Republic of Kazakhstan dated 07.12.2009 No. 222-IV (the order of enforcement see Article 2).**

### **232. The transfer of the civil servant to work to another government agency (public enterprise)**

A civil servant in his (her) written statement can be transferred to work in another government agency (public enterprise) by agreement between the heads of the respective organizations.

### **233. Certification of civil servants**

The civil servants shall pass the certification in order to determine the level of professional and qualification training, business skills.

The procedure and conditions for certification of civil servants shall be determined by the authorized state body of the appropriate sphere of activity.

### **234. Advancement in the civil service**

1. Advancement of civil servants in the service shall be by transferring them to a higher position.

2. Civil servants with a high level of qualification and experience, continuously improving their professional and qualification level have a priority to the advancement in the civil service.

### **235. Advanced training and re-training of civil servants**

1. Civil servants may be directed to the appropriate organization of education in order to improve the professional knowledge and skills and to acquire professions and specialties.

2. Training, re-training, traineeship, including scientific training, and in the case of on-job training (work) of a civil servant, shall be paid at the expense of the sending organization.

During the study of the civil servant, the current position, guarantees and compensation payments are remained to him (her).

3. Civil servants, taking course of advanced training or re-training by specialization, corresponding to the profile of the civil service, are granted paid study leave.

### **236. Encouragement of civil servants**

For the faithful performance of his (her) duties, the high quality of work, including the work of special complexity and urgency, for the initiative, creativity and other achievements at work, the civil servants can be encouraged to:

- 1) advancement in the civil service;
- 2) monetary compensation;
- 3) expression of gratitude.

A collective contract may provide other incentives.

### **237. The guarantees and compensation payments to civil servants, when moving to work in another country**

Civil servants, in moving to work together with government agencies (state enterprise) to another location (settlement) on the existing administrative divisions, are paid:

the cost of travel to the place of work of the civil servants and his (her) family members (except where government agency (public enterprise) provides an appropriate means of transportation);

the cost of transportation of property;

per diem for each day of the way;

lump sum benefit in the amount of six salaries on the hold position;

salary for the days of collecting to the road and arrangement in the new location, but not more than six days, as well as for travel time.

### **238. Remuneration of civil servants**

1. The remuneration system of civil servants, financed by the state budget, is established by the Government of the Republic of Kazakhstan.

2. Civil servants of health care, social welfare, education, culture and sports, that are civil servants and working in the aul (rural) areas, under the decision of local representative bodies at the expense of the budget, are set higher by at least twenty five percent salary and wage rates in comparison with the salaries and rates of civil servants , involved in these activities in urban areas, unless otherwise provided by the laws of the Republic of Kazakhstan.

3. The list of positions of health care, social welfare, education, culture and sports professionals, that are civil servants and working in the aul (rural) areas, is defined by the local executive body in coordination with the local representative body.

**Footnote. Article 238, as amended by the Constitutional Law of the Republic of Kazakhstan dated 03.07.2013 No. 121-V (shall be enforced upon expiry of ten calendar days after its first official publication); by the Law of the Republic of Kazakhstan dated 17.01.2014 No. 165-V (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **239. Leave for civil servants**

1. Civil servants, financed by the state budget, are given the main paid annual leave of not less than thirty calendar days with the payment of benefits for health improvement in the amount of the salary. Benefits for health improvement of civil servants are paid once per calendar year.

For certain categories of civil servants by the laws of the Republic of Kazakhstan, may be set a longer duration of the main annual paid leave.

2. Civil servants, who are studying in higher education institutions, by agreement with the employer, are provided by a paid study leave for the period of examination, training and protection of the graduation project (work), and taking final exams.

**Footnote. Article 239, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **240. Additional grounds for termination of the labour contract with civil servants**

1. In addition to the grounds for termination of the labour contract with employees, specified in this Code, the additional grounds for termination of the labour contract with civil servants shall be the achievement of the retirement age set by the law of the Republic of Kazakhstan.

2. The labour contract may be renewed annually with the employee, who has reached the retirement age and has a high level of professional and qualification levels, due to his (her) performance abilities as a head of a government agency (public enterprise) or an executive secretary or other official, designated by the President of the Republic of Kazakhstan.

Footnote. Article 240, as amended by the Law of the Republic of Kazakhstan of 27 July, 2007 No. 315 (shall be enforced from the date of its official publication).

**Chapter 25-1. Features of labour regulation of employees of the state-owned enterprises on the right of economic management, national managing holdings, national development institutions, national holdings and national companies, and their branch organizations**

Footnote. Code is supplemented by Chapter 25-1 in accordance with the Law of the Republic of Kazakhstan dated 07.12.2009 No. 222-IV (the order of enforcement see Article 2).

**240-1. Restriction, associated with working in the state-owned enterprises on the right of economic management, national managing holdings, national development institutions, national holdings and national companies, and their branch organizations**

A person, who has committed a crime of corruption cannot be taken to work in the state-owned enterprises on the right of economic management, national managing holdings, national development institutions, national holdings and national companies and their branch organizations, in positions related to the performance of management functions.

**Chapter 25-2. Features of control of employees, belonging to the Civil Aviation personnel**

Footnote. The Code is supplement by Chapter 25-2 in accordance with the Law of the Republic of Kazakhstan dated 04.07.2013 No. 132-V (shall be enforced upon expiry of ten calendar days after its first official publication).

**240-2. Working hours and rest periods of employees, belonging to aircraft personnel of civil aviation**

Employees of work, belonging to civil aviation personnel and experimental aircraft, directly related to safety, is regulated by this Code with the specifications provided by the Law of the Republic of Kazakhstan “On the use of the airspace of the Republic of Kazakhstan and aviation” and other regulatory legal acts of the Republic of Kazakhstan , establishing special rules of working time and rest periods in accordance with international standards and norms in the field of civil aviation.

**Chapter 26. FEATURES OF LABOUR REGULATION OF EMPLOYEES OF SMALL BUSINESS ENTERPRISES**

**241. Small Business Enterprises, in respect of which are set the features for regulation of labour relations**

Features of labour regulations, established by this Chapter shall apply to subjects of Small Business Enterprise with an annual average number of employees no more than 25 persons.

#### **242. Terms of labour contracts for Small Business Enterprises**

Small Business Enterprises may conclude the labour contracts with employees for a certain period, without restrictions provided in subparagraph 2) of paragraph 1 of Article 29 of this Code.

#### **244. Work schedule**

Small Business Enterprises have the right to set work schedule, which provided the attraction to work on weekends and holidays according to the schedule, which is approved by the employer, and use summarized recording of working time or split working day in compliance with the general requirements for duration of working hours.

#### **245. Terms of payment for labour**

Terms of payment for labour of employees of Small Business Enterprises are set or changed by the employer and made available to the employees at the time of conclusion of the labour contract or not later than one month prior to their adoption. In approving the terms of payment for labour, the employer can not change the terms of the labour contract unilaterally.

#### **246. The participation of Small Business Enterprises in social partnership**

To labour relations with the participation of Small Business Enterprises are applied the agreement in the event, when the employers and employees are united in the relevant organizations to negotiate and sign such agreements.

#### **247. Features of organization of work safety and labour protection of Small Business Enterprises**

The organization of work safety and labour protection of Small Business Enterprises may be on a contractual basis with individuals or legal entities.

### **Chapter 27. FEATURES OF LABOUR REGULATION OF THE HEAD AND MEMBERS OF THE COLLECTIVE EXECUTIVE BODY OF THE LEGAL ENTITY AND THE EMPLOYEES, APPOINTED (ELECTED) BY THE PROPERTY OWNER OR HIS (HER) AUTHORIZED PERSON (BODY) OR BY THE AUTHORIZED BODY OF THE LEGAL ENTITY**

**Footnote. Title of Chapter 27, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **248. The Legal Basis for regulation of labour of the head of the executive body of a legal entity**

Labour relationship with the head of the executive body of a legal entity shall be in accordance with this Code, the laws of the Republic of Kazakhstan, the constituent documents and the labour contract.

#### **249. Conclusion of a labour contract with the head of the executive body of a legal entity**

Labour contract with the head of the executive body of a legal entity is concluded by the property owner of a legal entity or his (her) authorized person (body) or by the authorized body of a legal entity for a period specified in the laws of the Republic of Kazakhstan, the constituent documents or the parties' agreement.

The laws of the Republic of Kazakhstan or the constituent documents may establish the additional procedures, prior to the conclusion of the labour contract with the head of the executive body of a legal entity.

#### **250. The job of the head of the executive body of a legal entity on plurality**

The head of the executive body of a legal entity may hold the paid positions in other companies only with the permission of the authorized body of a legal entity or the owner of a legal entity or his (her) authorized person (body).

#### **251. Financial liability of the head of the executive body of a legal entity**

The head of the executive body of a legal entity shall be liable for the damage, caused by him (her) to a legal entity, in accordance with this Code or other laws of the Republic of Kazakhstan.

#### **252. Additional grounds for the termination of the labour contract with the head of the executive body of a legal entity**

In addition to the grounds provided in this Code, the additional reason for the termination of the labour contract with the head of the executive body of a legal entity shall be the decision of the property owner of a legal entity or his (her) authorized person (body) or the authorized body of a legal entity, on the early termination of the labour relationship.

In the case of termination of the labour contract with the head of the executive body of a legal entity prior to the period of its expiration, he (she) shall be made the compensation payments for the early termination of the labour contract in the amount, on the terms and in the manner determined by the labour contract.

**Footnote. Article 252, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **253. Early termination of the labour contract on the initiative of the head of the executive body of a legal entity**

The head of the executive body of a legal entity has the right to early terminate the labour contract, with notifying the property owner of a legal entity or his authorized person (body) or the authorized body of a legal entity, in the written form no less than two months.



**254. Features of labour regulation of the members of the collegial executive body of a legal entity and the employees, appointed (elected) by the property owner or his (her) authorized person (body), or by the authorized body of a legal entity**

Footnote. Title of Article 254, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

Features of labour regulation of the head of the executive body, established by this Chapter shall apply to the other members of the collective executive body of a legal entity, unless otherwise provided by the laws of the Republic of Kazakhstan.

Features of labour regulation of the employees, appointed (elected) by the property owner or his (her) authorized person (body), or by the authorized body of a legal entity, shall be determined by the laws of the Republic of Kazakhstan.

Footnote. Article 254, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

## **Chapter 28. FEATURES OF LABOUR REGULATION OF PUBLIC SERVANTS, DEPUTIES OF THE PARLIAMENT AND MASLIKHATS, JUDGES OF THE REPUBLIC OF KAZAKHSTAN, PERSONS IN THE MILITARY SERVICE, THE STAFF OF THE SPECIAL PUBLIC, LAW ENFORCEMENT AGENCIES AND EMPLOYEES OF THE NATIONAL BANK OF THE REPUBLIC OF KAZAKHSTAN AND ITS AGENCIES**

Footnote. Title as amended by the Law of the Republic of Kazakhstan dated 05.07.2012 No. 30-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Footnote. In the text of Chapter 28, the words “of workers”, “workers”, “to workers” are replaced by the words “of employees”, “employees”, “to employees” by the Law of the Republic of Kazakhstan dated 06.01.2011 No. 379-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

### **255. Regulation of labour of public servants, deputies of Parliament and maslikhats, judges of the Republic of Kazakhstan**

The labour of public servants, deputies of Parliament and maslikhats, judges of the Republic of Kazakhstan is regulated by this Code with the specifications, provided in the laws of the Republic of Kazakhstan and other regulatory legal acts of the Republic of Kazakhstan that are set the specific conditions and procedures for entering into service, its execution and termination, the special working conditions, the terms of payment for labour and fringe benefits, advantages and limitations.

### **256. Persons, who are in the military service, and employees of special government and law enforcement agencies**

Footnote. Title as amended by the Law of the Republic of Kazakhstan dated 13.02.2012 No. 553-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

1. The persons, who are in the military service are the persons serving in the Armed Forces of the Republic of Kazakhstan, the Border Guard Service, Military Intelligence agencies and military police of the National Security Committee of the Republic of Kazakhstan, the Republican Guard, the Internal Troops and military-investigative agencies of the Ministry of Internal Affairs, the agency of administration and parts of the civil defense of the authorized body in the field of emergency and the agencies of military procuracy.

2. The law enforcement officials are the persons, who are serving in the law enforcement agencies, financial police, the State Fire Service, the Customs, the prosecution agencies of the Republic of Kazakhstan, and carrying out law enforcement activities in accordance with the laws of the Republic of Kazakhstan.

3. The employees of special government agencies are the persons, who are serving in the national security agencies and in the authorized body in the sphere of foreign intelligence and Security Service of the President of the Republic of Kazakhstan.

Footnote. Article 256, as amended by the laws of the Republic of Kazakhstan dated 27.05.2010 No. 279-IV (the order of enforcement see Article 2); dated 18.01.2012 No. 547-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 13.02.2012 No. 553-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 16.02.2012 No. 562-IV (shall be enforced upon expiry of ten calendar days from the date of its first official publication).

### **257. Regulation of labour of people, who are serving in the military service, employees of special government and law enforcement agencies**

The work of persons, who are in the military service and employees of special government and law enforcement agencies is regulated by this Code with the specifications, provided in the special laws of the Republic of Kazakhstan and other regulatory legal acts of the Republic of Kazakhstan that are set the specific conditions and procedures for entering into service, its execution and termination, the special conditions, the terms of payment for labour, fringe benefits, advantages and limitations

Footnote. Article 257, as amended by the Law of the Republic of Kazakhstan dated 13.02.2012 No. 553-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

### **257-1. Regulation of labour of employees of the National Bank of the Republic of Kazakhstan and its agencies**

Work of the employees of the National Bank of the Republic of Kazakhstan and its agencies is regulated by this Code with the specifications, provided in the Law of the



Republic of Kazakhstan “On the National Bank of the Republic of Kazakhstan” and other regulatory legal acts of the Republic of Kazakhstan, which establish special conditions for appointment, termination of the labour contract, special working conditions and conditions of payment for labour, advantages and limitations.

**Footnote. Chapter 28 is supplemented by Article 257-1 in accordance with the Law of the Republic of Kazakhstan dated 05.07.2012 No. 30-V (shall be enforced upon expiry of ten calendar days after its first official publication).**

## **SECTION 4. SOCIAL PARTNERSHIP AND COLLECTIVE RELATIONS IN THE FIELD OF LABOUR**

### **Chapter 29. SOCIAL PARTNERSHIP IN THE FIELD OF LABOUR**

#### **258. The aims of social partnership**

Social partnership in the Republic of Kazakhstan is aimed at the following objectives:

- 1) the establishment of an effective mechanism for regulation of the social, labour and economic relations related to them;
- 2) the promotion of social stability and social harmony, based on the objective consideration of the interests of all sectors of society;
- 3) the assistance in ensuring the rights of employees in the workplace, the implementation of their social protection;
- 4) the contribution to the process of consultation and negotiation between the parties of social partnership, at all levels;
- 5) the assistance to the resolution of collective labour disputes;
- 6) the development of proposals for the implementation of state policy in the field of social and labour relations.

#### **259. Basic principles of social partnership**

The basic principles of social partnership are:

- 1) the competence of representatives of the parties;
- 2) the equality of the parties;
- 3) the free choice of the issues to discuss;
- 4) the voluntary assumption of liabilities;
- 5) the respect for the interests of the parties;
- 6) the mandatory implementation of collective contracts, agreements;
- 7) the responsibility of the parties, their representatives for non-performance due to their fault of the adopted obligations under the agreement;
- 8) the state assistance in strengthening and development of social partnership;
- 9) the transparency of decision-making.

#### **260. The bodies of social partnership**

Social partnership is provided in the form of interaction of the parties through the social partnership bodies:

1) at the republican level – by the Republican tripartite commission on social partnership and regulation of social and labour relations (hereinafter - the State Commission);

2) at the branch level – by the branch commissions on social partnership and regulation of social and labour relations (hereinafter - the Sectoral Commission);

3) at the regional (regional, city, district) level – by the regional, city and district commissions for social partnership and regulation of social and labour relations ( hereinafter - Regional Commission);

4) at the level of organizations in the form of agreements or collective contracts, which shall establish the specific mutual obligations in the field of labour between the representatives of employees and employers, and in the organizations with foreign participation – by residents of the Republic of Kazakhstan on the basis of the international treaties (agreements) and the laws of the Republic of Kazakhstan.

#### **261. Forms of social partnership**

Social partnership shall be in the forms of:

collective negotiations on the drafting of collective contracts, agreements and their conclusion;

mutual consultations (negotiations) on the regulation of labour relations and other relations directly related to them, to guarantee the rights of employees in the workplace and to improve the labour legislation of the Republic of Kazakhstan;

participation of the representatives of employees and employers in the pre-trial settlement of labour disputes.

#### **262. The parties of social partnership**

The parties of social partnership are the state, represented by the relevant executive bodies, the employees and employers through their representatives, authorized in the established order.

#### **263. Organization of social partnership at the republican level**

1. The Republican Commission is a permanent body on ensuring the coordination of interests of the social partners through the consultations and negotiations that are executed by the relevant decisions.

2. The participants of the Republican Commission are the authorized representatives of the Government of the Republic of Kazakhstan, the republican association of employees and the republican association of employers.

3. The authorized representatives of the republican associations of employees are the unions with structural subdivisions (branches and representative offices) in the territory of more than half of the regions of the Republic of Kazakhstan and the cities of the republican significance.

4. The authorized representatives of the republican associations of employers are the representatives of the National Chamber of Entrepreneurs of the Republic of Kazakhstan, the representatives of the republican union (association) of associations of private entrepreneurs, republican association of small business, republican branch associations of private entrepreneurs.

The representation from these unions (associations) shall be on the proportional basis depending on the number of the national associations within them.

**Footnote. Article 263, as amended by the Law of the Republic of Kazakhstan dated 04.07.2013 No. 130-V (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **264. Organization of social partnership at the branch level**

1. The Sectoral Commission is a continuing body on ensuring the coordination of interests of the social partners through consultations and negotiations that are executed by the relevant decisions. The Republican Commission shall establish the list of branches for the purposes of this Code.

2. The participants of the Sectoral Commissions are the authorized representatives of the authorized government bodies of the respective spheres of activity, the representatives of employers and employees.

3. The authorized representatives of branch associations of employees are the sectoral trade unions, with structural subdivisions (branches and representative offices) in the regions and cities of the republican significance.

4. The authorized representatives of employers are the representatives of the National Chamber of Entrepreneurs of the Republic of Kazakhstan and industry organizations.

**Footnote. Article 264, as amended by the Law of the Republic of Kazakhstan dated 04.07.2013 No. 130-V (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **265. Organization of social partnership at the regional level**

1. The Regional Commission is a continuing body on ensuring the coordination of interests of the social partners through consultations and negotiations that are executed by the relevant agreements and decisions.

2. The participants of the regional commissions are the respective authorized representatives of local executive bodies, the representatives of employers and employees.

3. The authorized representatives of regional associations of employees are the associations of trade unions at the regional, city and district levels.

4. The authorized representatives of employers at the regional level are:

1) at the regional level – the representatives of the National Chamber of Entrepreneurs of the Republic of Kazakhstan, regional association of private enterprises, the regional association of small business;

2) at city and district levels - the representatives of the National Chamber of Entrepreneurs of the Republic of Kazakhstan, municipal, district associations of small business.

**Footnote. Article 265, as amended by the Law of the Republic of Kazakhstan dated 04.07.2013 No. 130-V (shall be enforced upon expiry of ten calendar days after its first official publication).**

## **266. Regulation of social and labour relations at the organization level**

1. To ensure the regulation of social and labour relations, collective bargaining and drafting of the collective contract and its conclusion, and in order to control the implementation of the collective contract on an equal basis by the decision of the parties, the Commission from the duly authorized representatives of the parties is organized.

2. Employer in accordance with the terms of the collective contract provides conditions for the activities of the trade union of the organization.

3. By agreement of the parties and with the written statements of the employees who are members of the trade union, the employer shall transfer to the trade union the membership fees from employees' pay, on the monthly basis.

**Footnote. Article 266, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

## **267. The principles and procedures for the formation of permanent republican, branch and regional commissions**

1. Permanent republican, branch, regional commissions are formed on the basis of the following principles:

1) mandatory participation of representatives of the executive bodies, representatives of employers and employees in the activity of the Commission;

2) competence of the parties;

3) equal representation;

4) equality of the parties;

5) mutual responsibility of the parties.

2. Personal composition of the commission members is formed by each party of social partnership individually.

## **268. The main aims and objectives of the republican, branch and regional commissions**

1. The main aims of the commission are the regulation of social and labour relations and coordination of the interests of the social partners.

2. The main objectives of the commission are:

- 1) the coordination of the social partners of the positions in key areas of social and economic policy;
- 2) the development and conclusion of agreements;
- 3) the development, negotiation and approval of measures to implement the agreements;
- 4) the consultation and recommendations on the issues, related to the ratification and implementation of international labour standards.

3. Commission shall act in accordance with the provisions and work plans, approved by them. The Commission shall meet at least twice a year.

### **269. The basic rights of the republican, branch and regional commissions**

Republican, branch and regional commission have the right to:

- 1) consider at its meetings the issue on a coordinated policy in the field of social and labour relations;

- 2) harmonize the interests of executive bodies, employers' and employees' organizations in the development of the draft agreement, the implementation of this agreement and the implementation of the Commission's decisions;

- 3) request from the executive bodies, the employers and (or) the employee representatives the information about negotiated and concluded agreements, regulating social and labour relations;

- 4) control the execution of its decisions, and in case of their non-fulfillment by persons responsible to send to the relevant party of social partnership the information with proposals to eliminate the detected violations and bringing to responsibility the persons guilty for non-performance of conditions under the agreement;

- 5) request and receive information from the executive bodies on the social provisions, necessary for the purpose of collective negotiations and the preparation of the draft agreement, the organization of control over the implementation of the agreement;

- 6) make proposals for the development of regulatory legal acts in the field of social and labour relations to the authorized state bodies;

- 7) establish working groups with participation of scientists and specialists;

- 8) invite to a commission meeting the employees of the executive bodies, public associations and independent experts;

- 9) make joint agreements and decisions, which are binding on consideration and implementation in the established terms of the Commission, by the executive bodies, associations of employers and employees;

- 10) take part in the international, national, interregional meetings, conferences, congresses, seminars on social and labour relations and social partnership in the manner, agreed with the organizers of these events.

### **270. Authority of the employees' representatives**

1. Employees representatives have the right to:
  - 1) represent and protect the social and labour rights and the interests of employees;
  - 2) conduct collective bargaining with the employer for the drafting and conclusion of agreements, collective contracts, and receive for this purpose the necessary information on the labour relationship;
  - 3) participate in the solution of issues on social and economic development, specified in the agreements or collective contracts;
  - 4) perform the public control, in the manner prescribed by this Code;
  - 5) work with the state inspectors of the authorized state body for labour on the violations of the labour law;
  - 6) visit workplaces to learn and take actions to ensure the normal working conditions, in accordance with the agreements and collective contracts;
  - 7) participate in the advisory bodies for the development and consideration of the draft legislative acts, programs related to the labour relations and social and economic issues;
  - 8) participate in the settlement of labour disputes between employers and employees in the manner prescribed by this Code;
  - 9) hold meetings, rallies, demonstrations, pickets, strikes in accordance with the laws of the Republic of Kazakhstan.
2. The employers' interfering to the implementation of the authority by the employees representatives, is not allowed.

## **Chapter 30. PROCEDURE FOR CONCLUDING THE AGREEMENTS BETWEEN THE SOCIAL PARTNERS**

### **271. The right to negotiate for the preparation of agreements**

1. Any of the social partners has the right to be an initiator of negotiations on the development, maintenance, signing, amending or supplementing the agreements.
2. In the presence at the republican, branch and regional levels, the several authorized representatives of employers and employees, each of them has the right to negotiate on behalf of the represented employees and employers.

### **272. The order of the negotiation, development and conclusion of agreements**

1. The parties, who have received written proposals on the start of negotiations from the other part, shall review them and start negotiations within ten calendar days.  
In case of disagreement between the parties on the certain provisions of the industry agreement, the parties must sign the industry agreement on agreed terms with drawing up the protocol of disagreement within three months from the start of negotiations.

2. The order of negotiation, development terms and conclusion of agreements, as well as introduction of amendments and additions, accession to them are approved by the commission.

3. Agreements shall enter into force from the date of their signature by the parties or from the date specified in the agreements. All the applications to the agreements are their integral parts and equally valid.

4. Validity of an agreement is set by agreement between the parties or until conclusion of a new agreement, but can not exceed three years.

5. In cases, where the employees at the same time are subject to several agreements, the most favorable conditions of the agreements shall be applied.

6. General, sectoral and regional agreements are secured by signatures of representatives of the social partners.

7. The sectoral and regional agreements, signed by the parties with applications shall be sent for the notifying registration within ten days.

### **273. The decision making procedure of the republican, sectoral and regional commissions**

1. The decisions of the commission are accepted only on the basis of achieving the consent of all the parties in the negotiations and executed by the relevant agreements.

2. If the parties could not come to an agreement during the negotiations, a protocol shall be made, where the finalized proposals of the parties on the resolution of disagreements and the period of renewal of negotiations shall be included.

3. The decision making procedure and the organization of work are developed and approved by the commission.

### **274. Commissions' coordinators**

The coordinators of the republican, sectoral and regional commissions are appointed by a joint decision of the parties. Coordinator of the Commission:

1) does not interfere in the activities of the parties;

2) invites to participate in the commission the representatives of employers' and employees', representatives of the executive body, who are not members of the Commission, as well as scientists and experts, and representatives of other organizations;

3) provides the work of the commission and working groups, takes the minutes, prepares the draft decisions and controls their execution.

### **275. The parties and types of agreements**

1. The General Agreement between the Government of the Republic of Kazakhstan, the republican associations of employers and the republican associations of employees is concluded at the republican level.

2. The sectoral agreements between the authorized state bodies of the relevant sphere of activity, the authorized representatives of employers and employees are concluded at the branch level.

3. The regional (provincial, city, district) agreements between local executive bodies and the authorized representatives of employers and employees are concluded at the regional level.

**Footnote. Article 275, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

## **276. The content of agreements**

1. Agreements must include the following provisions:

- 1) the period of validity;
- 2) the measure of control over the execution;
- 3) the procedure for making amendments and additions to the agreement;
- 4) the responsibilities of the parties in the event of non-fulfillment of their obligations.

2. The content of the General agreement is determined by the republican commission on the basis of project of the General Agreement, submitted by all parties of social partnership, or by one of them.

3. The content of the sectoral and regional agreements is determined by sectoral and regional commissions on the basis of draft agreements, submitted by all parties of social partnership, or by one of them.

4. Agreements may include the provisions:

- 1) on payment terms, conditions and protection of labour, schedule of work and rest.

The minimum wage rate (salary) in industry is determined by sectoral agreements;

2) on the mechanism of regulation of wages, based on the price level and inflation, cost of living and performance of indicators, determined by the agreement;

3) on compensation payments;

4) on promotion of employment, vocational training and retraining of employees;

5) on the organization of the employees' health protection at work, by creating favorable conditions for work and rest, and providing with appropriate environment;

6) on measures to promote a healthy lifestyle;

7) on special measures for the social protection of employees and their families;

8) on measures to protect employees in the event of temporary suspension of production;

9) on the prevention of conflicts and strikes and the strengthening of labour discipline;

10) on the conditions for the activities of employees' representatives;



- 11) other provisions on social and labour issues, which are not contrary to the law;
- 12) on the assistance in the development of social infrastructure.

5. Industry agreements must contain provisions:

- 1) on payment terms, conditions and protection of labour, schedule of work and rest;
- 2) on compensation payments;
- 3) on the special measures for the social protection of employees;
- 4) on the mechanism of regulation of wages, based on the level of inflation, cost of living and performance of indicators, determined by the agreement;
- 5) on the establishment of increasing industry factors.

6. The provisions of the agreement, worsening the situation of the employee compared with the labour legislation of the Republic of Kazakhstan, shall be deemed as invalid and shall not apply.

**Footnote. Article 276, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **277. Registration of agreements**

1. Registration of sectoral and regional agreements, concluded at the regional level is made by the authorized state body for labour.

2. Registration of sectoral and regional agreements, concluded at the city and district level is made by local executive bodies.

### **278. Validity of agreements**

1. The validity of agreements shall apply to the relevant executive bodies, the employers and employees, whose representatives signed the agreement.

2. The agreement is valid for:

all employers, who are members of employers' associations, which concluded the agreement. Termination of membership in the employers' association shall not exempt the employer from the implementation of the agreement, concluded in the period of his (her) membership. The employer entered into employers' association in the period of validity of the agreement, must comply with the obligations of this agreement; employers, who joined to the agreement after its signing.

3. The validity of agreements shall also apply to organizations, that are located in the Republic of Kazakhstan, the property owners, the founders (participants) or shareholders of which are the foreign individuals or legal entities or the organizations with foreign participation.

4. The authorized state body for labour at the republican level, the authorized state bodies of the relevant sphere of activity on the branch and local executive bodies at the

regional level, must officially publish the agreements with the proposal to the employers' associations, employers, employees' associations, which did not participate in the agreement, to join to the agreement at the appropriate level.

If the employers' associations, employers, employees' associations within 30 calendar days from the date of the official publication of the proposal to join the agreement, shall not provide the relevant executive bodies with a written reasoned refusal to join it, the agreement is considered as accepted to them after the official publication of the proposal.

**Footnote. Article 278, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **279. Control over the implementation of the agreements**

The parties of social partnership shall control the implementation of the agreements

### **280. The responsibility for avoiding engagement in negotiations**

Evasion of the representatives of the parties to participate in the negotiations for the conclusion, amendment of the agreement on social partnership and unlawful refusal to sign the agreed agreement on social partnership, failure to provide information necessary for the negotiation and implementation of control in compliance with the standard norms of the agreement on social partnership, as well as a violation or non-performance of the conditions, shall entail the responsibility, established by the laws of the Republic of Kazakhstan.

## **Chapter 31. COLLECTIVE CONTRACT**

### **281. The principles of collective bargaining**

The principles of collective bargaining are:

- equality and respect for the interests of the parties;
- freedom of choice in the discussion of issues, that draw up the content of the collective contract or agreement;
- voluntary assumption of obligations by the parties;
- compliance with the labour legislation of the Republic of Kazakhstan.

### **282. The procedure of collective bargaining, development and conclusion of collective contract**

1. Any of the party may be the initiator on preparation of project and conclusion of collective contract.

The party, taking a notice from the other party with a proposal to start negotiations on conclusion of a collective agreement, shall consider it and enter into negotiations in the manner prescribed by paragraph 2 of this Article within ten days.

2. For collective bargaining and to draft a collective agreement, the parties shall form the commission on a parity basis. Number of members of the commission, its personal composition, period of project development and collective bargaining, are determined by agreement of the parties.

The employer provides by agreement of the parties the conditions, necessary for the development and conclusion of a collective contract.

The employees, that are not members of a trade union, are entitled to authorize on a contractual basis the body of the trade union and other representatives to represent their interests in the relationship with the employer.

In the presence in the organization of several representatives of the employees, they can be create a single representative body to participate in the commission and sign the collective agreement. In this case, each of them has a right to representation in the single negotiating body on the basis of proportional representation, depending on the number of employees they represent.

3. The Commission's draft collective agreement is subject to mandatory discussion of employees of the organization. The forms of discussion of the project are determined by the employees themselves. The project is finalized by the commission, taking into account the comments and suggestions.

4. Upon agreement of the parties, the collective contract is made at least in two copies and signed by the representatives of the parties.

5. In case of disagreement between the parties on the certain provisions of the collective agreement, within one month of the start of collective bargaining, the parties must sign a collective agreement on the agreed terms, with drawing up the protocol of disagreement.

6. The amendment and supplement to the collective contract are made only by mutual agreement of the parties in the manner, prescribed by this Article for its conclusion.

7. The participants of collective bargaining may not disclose the received information, if the information includes the state secrets, official, commercial or other secrets, protected by the law.

8. The participants of collective bargaining may be exempted from performing job duties at the time of negotiations, with saving their average salary. This term is included in their employment history.

9. The employer must, within one month from the date of signing, represent the collective contract, signed by the parties to the territorial division of the authorized body for labour for the purpose of monitoring.

10. Representatives of the parties shall periodically inform employees on the implementation of the collective contract.

Footnote. Article 282, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 13.06.2013 No. 102-V (shall be enforced upon expiry of ten calendar days after its first official publication).

### **283. The parties of the collective contract**

1. The parties of a collective contract are an employer and employee.
2. A collective contract can be concluded in organizations, branches and representative offices of foreign legal entities.

Footnote. Article 283, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

### **284. The content and structure of the collective contract**

1. The content and structure of the collective contract shall be determined by the parties. The collective contract must include the following provisions:

1) on the rate setting, forms and systems of remuneration, wage rates and salaries, allowances and bonuses to employees, including those, who engaged in heavy work or work under harmful (particularly harmful) and (or) hazardous working conditions;

2) on the order of wage indexation, payment of benefits and compensation, including the accidents;

3) on the allowable relation between maximum and minimum amount of wages to the appropriate profession, position in the organization;

4) on the setting of job evaluation factors;

5) on the duration of working hours and rest periods, the leave;

6) on the creation of healthy, safe working and living conditions, on the amount of funding for safety and labour protection, on the improvement of health care;

7) *Is excluded by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).*

2. The collective contract may include mutual obligations of employees and employers on the following questions:

1) on improving the organization of labour and increasing production efficiency;

2) on the regulation of labour order and labour discipline;

3) on the provision of employment, training, advanced training, retraining and employment of redundant employees;

4) on the guarantees and benefits to employees, who combine the work and study;

5) on the improvement of housing and living conditions of employees;

6) on the rehabilitation, health resort treatment and rest of employees;

7) on the accounting of treatment of the reasoned opinion of the body of a trade union organization in the termination of the labour contract with the employees, who are members of a trade union;

8) on the guarantees to the employees, who elected to a trade union;

9) on the conditions for the activities of employees' representatives;

10) on the creation of conditions for the activities of a trade union;

11) on the insurance of employees;

11-1) on payment of maternity leave, vacation to employees that adopt a newborn child (ren), while maintaining the average salary less the amount of social benefits in the event of loss of income due to pregnancy and childbirth, adoption of a newborn child (ren), carried out in accordance with the legislation of the Republic of Kazakhstan on compulsory social insurance;

12) on the monitoring of the implementation of the collective contract and the procedure for making amendments and additions;

13) on the prevention of termination of the labour contracts on the initiative of the employer, based on the strike;

14) on the responsibility of the employees and the employer for the damage, caused by them;

15) on the responsibility of the parties for the implementation of the collective contract;

16) on the voluntary professional pension contributions;

16-1) on the guarantees of medical insurance for employees and their families, and on the protection of the environment;

16-2) on the implementation at the expense of employer of voluntary pension contributions to an employee in case of insufficiency of his (her) funds to enter into a pension annuity agreement with the insurance company;

17) other issues, identified by the parties.

3. The collective contract should not worsen the situation of employees in comparison with the labour legislation, general, regional and sectoral agreements. Such provisions are deemed as invalid and shall not apply.

**Footnote. Article 284, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 04.02.2013 No. 75-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 21.06.2013 No. 106-V (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **285. The term and scope of the collective contract**

1. The collective contract is concluded for the period, determined by the parties.

2. The collective contract shall come into force from the date of signature, unless otherwise provided by the provisions, and binding upon the parties.

3. The validity of the collective contract shall apply to the employer and the employees of the organization, on whose behalf the collective contract is concluded, and to the employees joining it on the basis of a written application.

The procedure of accession is determined by the collective contract.

4. Collective contract remains in effect for a period of reorganization (merger, accession, division, extraction, transformation) of the organizations.

5. When a change of the property owner of the organization, the validity of the collective contract is remained within three months. During this period, the parties shall have the right to begin negotiations on conclusion of a new collective contract, or conservation, amendments and additions to the valid contract.

6. At liquidation of the organization and declaring it bankrupt, the collective contract shall be terminated from the date of termination of the labour contracts with all employees.

**Footnote. Article 285, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **286. Liability of the parties for failure to perform the collective contract**

For failure to perform the obligations, provided in the collective contract, the parties shall bear responsibility in accordance with the collective contract and the laws of the Republic of Kazakhstan.

#### **287. The guarantees and compensation during the negotiations**

During the period of negotiations, the labour contract with members of the representative bodies of employees, who involved in collective bargaining, shall not be terminated by the employer, without the consent of the relevant representative body (except for the liquidation of the organization).

**Footnote. Article 287, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **Chapter 32. CONSIDERATION OF THE COLLECTIVE LABOUR DISPUTES**

#### **288. The origin of a collective labour dispute**

1. Collective labour dispute is arising from the date of written notice to the employer on the employees' requirements to the application of the labour legislation of the Republic of Kazakhstan, on performance and change the terms of the agreements, labour and (or) the collective contracts, the employer's acts, which drawn up in accordance with paragraph 1 of Article 289 of this Code, or from the expiry date of the period specified in Article 290 of this Code and in the case of non-disclosure by the employer, the employers' association of their decisions.

2. Collective labour disputes are settled in conciliation procedures and (or) in a judicial proceedings.

**Footnote. Article 288, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **289. Procedure for issuance and application of the employees' requirements**

1. Employees' requirements for establishing and changing the working conditions and remuneration, conclusion, amendment and implementation of collective contracts and agreements between employees and employers, employers' association are formed and approved at a general meeting (conference) of employees.

Meeting of employees is considered as legally competent, if it is attended by more than half of the total number of employees of the organization.

Conference is considered as legally competent, if it is attended by at least two thirds of delegates elected by the employees in accordance with the protocol solutions.

Solutions of the employees' meeting (conference) shall be deemed as accepted by majority vote of participants. If it is impossible to hold a meeting (conference) of employees, the representative body of employees has the right to prove its decision by collecting signatures of more than half of the employees, in support of their submitted demands.

2. Employees' requirements are set forth in writing and sent to the employer, employers' associations within three calendar years.

3. If these requirements are put forward by the employees of different employers, such requirements may be presented by the sectoral or regional associations of trade unions or other individuals and legal entities, authorized by the employees.

4. Employer, employers' association are obliged to refrain from any interference, which would prevent the holding of a meeting (conference) of employees on making requirements.

**Footnote. Article 289, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **290. Consideration of employees' requirements**

The employer is obliged to consider the requirements put forward by employees no later than three working days, the employers' association no later than five working days from the date of receipt and take steps to resolve them, and if it is impossible to solve it in due time, to bring his (her) solutions and suggestions to the employees, indicating his (her) representatives for further consideration of a disagreement, in the written form.



Footnote. Article 290, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

### **291. Conciliation procedures**

1. If it is impossible to settle the employees' requirements in the manner prescribed in Article 290 of this Code, they shall be considered in the order of conciliation procedures.

The requirements, rejected by the employer, association of employers (or their representatives) or the requirements, meet by them partially are considered initially in the conciliation commission and in case of disagreement in it, by the labour arbitration.

2. At any stage of consideration of the collective labour dispute, the parties may apply to the mediator. Mediation process is an independent in relation to the conciliation procedures in the conciliation commission, labour arbitration, and can be made in parallel with them.

### **292. Conciliation Commission**

1. The conciliation commission shall be created by the parties within three calendar days from the date of bringing or the non-disclosure of its decision by the employer, association of employers (or their representatives) to the employees (their representatives) or from the date of drawing up the protocol of the disagreements in collective bargaining.

2. The conciliation commission is composed from representatives of the parties of the collective labour dispute on a parity basis. The decision to establish a conciliation commission is executed by the act of the employer and by the decision of the employees' representatives.

3. The conciliation commission shall consider the employers' requirements (their representatives) no later than three working days from the date of its creation. The order of consideration of the requirements by the conciliation commission and the extension of the deadline will be processed by agreement of the parties and recorded in the protocols.

4. During the conciliation procedure, the conciliation commission shall consult with the employees (or their representatives), the employer, association of employers (or their representatives), state bodies and other interested persons.

5. The commission's decision shall be based on the agreement of the parties and executed by the protocol, which is signed by the representatives of the parties and are binding to the parties.

6. If there are no agreement in the conciliation commission, its work is stopped and the labour arbitration is created for resolution of the dispute.

Footnote. Article 292, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

### **293. Labour arbitration**

1. The labour arbitration is created by the parties of the collective labour dispute within five calendar days from the date of termination of the conciliation commission and with participation of members of the republican, sectoral or regional commissions for the regulation of social and labour relations.

2. The number of members of the labour arbitration, its personal composition, the order for consideration of labour disputes are determined by agreement of the parties. The labour arbitration shall consist of no less than five people. The composition of labour arbitration includes the representatives of public associations, the state labour inspectors, specialists, experts and others.

3. Chairman of the labour arbitration is elected by the parties among the members of the arbitration.

4. Collective labour dispute is considered by the labour arbitration with mandatory participation of the parties to the collective labour dispute, if necessary, also with the participation of representatives of other interested persons.

5. The procedure for consideration of a dispute is determined by the labour arbitration and brought to the notice of the parties of the collective labour dispute.

6. The labour arbitration decision shall be taken no later than seven calendar days from the date of its creation by a majority vote of the arbitration. If the votes of members of the labour arbitration are equal, the chairman's vote shall be decisive. The decision must be motivated, set out in writing and signed by all the members of the arbitration.

7. If there is no agreement between the parties of a collective labour dispute in the conciliation commission of the organizations, where strikes are prohibited or restricted by the law, the creation of the labour arbitration is mandatory.

8. Decision of the labour arbitration is binding on the parties of the collective labour dispute.

### **294. Consideration of a collective labour dispute with the participation of a mediator**

1. The order for consideration of the collective labour dispute with the participation of a mediator is determined by agreement of the parties of the collective labour dispute.

2. The parties shall determine the organizations and individuals, independent in relation to them, as mediators. The republican, sectoral and regional commissions on regulation of social and labour relations, with the agreement of the parties of the collective labour dispute, may involve the managers and employees of central and local executive bodies, associations and other public associations, employers, as well as independent experts to the settlement of the collective labour disputes.

In all cases of election of mediators, they must agree to the mediation in the written form.

#### **295. The consequences of reaching an agreement between the parties of the collective labour dispute**

1. In all cases of reaching an agreement between the parties of the collective labour dispute to resolve it with or without a mediator, the incompleted conciliation procedures are terminated, and the terms of settlement shall be the terms of the agreement between the parties.

Agreements, reached by the parties of the collective labour dispute, shall be executed in writing.

2. Reaching an agreement between the parties to resolve the dispute, shall entail the termination of a strike, if it is declared.

#### **296. The guarantees in connection with the resolution of a collective labour dispute**

The members of the conciliation commission at the time of participation in the negotiations on the settlement of collective labour disputes, shall be exempted from work with preservation of the average wage.

The representatives of employees, their associations, involved in the resolution of collective labour disputes can not, in the period of settlement of a collective labour dispute, be subject to discipline, transfer to another job or the labour contracts with them can not be terminated by the employer without the prior consent of the body, authorized them to the representation.

#### **297. The obligations of the parties and the mediation bodies for settlement of collective labour disputes**

1. None of the parties is entitled to refrain from participation in the conciliation procedure.

2. The disagreements in the collective labour dispute, which are not resolved in the conciliation commission, must bring to the notice of the parties by the labour arbitration in writing.

3. If a settlement of disagreements of the parties of the collective labour dispute can not be due to lack of authority of the employer's representative, the employees' requirements are submitted to the property owners, the founders (participants) or shareholders of the organizations, including organizations located in the territory of the Republic of Kazakhstan, the property owners of which are foreign individuals or legal entities or organizations with foreign participation.

4. In case of disagreement with the results of the procedures, specified in paragraphs 2 and 3 of this Article, employees may use all other means, provided in the law to protect their interests up to the strike.

#### **298. The right to strike**

1. Employees may decide to go on strike, if through the conciliation procedures failed to achieve a resolution of collective labour disputes, as well as in cases of employer's deviation from the conciliation procedures or failure to perform agreements, made in the settlement of a collective labour dispute.

2. The decision to go on strike is adopted at the meeting (conference) of employees (their representatives).

Meeting of employees is considered as legally competent, if it is attended by more than half of the total number of employees of the organization.

Conference is considered as legally competent, if it is attended by at least two thirds of delegates, elected by the employees in accordance with the protocol solutions.

Solutions of employees' meeting (conference) shall be made by a majority vote of participants. If it is impossible to hold an employees' meeting (conference), the representative body of the employees has the right to adopt its decision by collecting signatures of more than half of the employees in support of the strike.

3. The strike is led by the body (the strike committee), authorized by the employees (their representatives). In case of proclaiming a strike by the employees (or their representatives) of several employers with the same requirements, it can lead by joint body, formed from an equal number of representatives of these employees.

4. Participation in the strike is voluntary. No one may be compelled to participate or refuse to participate in the strike.

5. The persons, forcing the employees to participate or refuse to participate in the strike, shall be responsible in accordance with the laws of the Republic of Kazakhstan.

**Footnote. Article 298, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **299. Proclaiming a strike**

1. The employer, association of employers (or their representatives) must be notified by the authorized body, specified in paragraph 3 of Article 298 of this Code, on the beginning of the strike and its possible duration, in writing no later than five working days before its proclamation.

2. The decision to declare a strike shall include:

1) the list of disagreements between the parties, which are the basis for the strike;

2) the date, place and time of the strike, the expected number of participants;

3) the name of the body heading the strike, the composition of employee representatives, authorized to participate in the conciliation proceedings;

4) the proposals for minimum of necessary work (services), performed at the time of the strike.

Footnote. Article 299, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

### **300. Authority of the body, heading a strike**

1. The body, heading a strike, shall act within the powers, granted to it by this Code, and based on the authority given to it by the employees (or their representatives).

2. The body, heading a strike has the right to:

1) represent the interests of the employees in the relationship with the employer, association of employers (or their representatives), state, trade union, and other legal entities and officials on the resolution of the submitted claims;

2) receive from the employer, representatives of the employers (their representatives) the information on issues, affecting the interests of the employees;

3) illustrate the process of consideration of the employees' claims in the media;

4) invite experts to give an opinion on controversial issues;

5) suspend the strike, with the consent of the employees (their representatives).

3. To resume a previously suspended strike, the re-examination of the dispute by the conciliation commission, agent or the labour arbitration is not required. The employer, association of employers (or their representatives) and the authority to settle the labour disputes should be warned about the resumption of the strike, no later than three working days.

4. The authority of the body, heading the strike shall be terminated when the parties of a collective labour dispute signed an agreement to settle it, and in the event that the strike is not legal.

5. In exercising of its authority the body, heading the strike may not make decisions, which fall within the competence of the employer, state bodies and public associations.

### **301. The obligations of the parties of the collective labour dispute during the strike**

During the strike, the parties of the collective labour dispute are obliged to continue the resolution of this dispute through negotiation.

The employer, state bodies and the body, heading the strike shall take measures within their authority to ensure during the strike, the public order, preservation of property of the organization and safety of employees, and operation of machines and equipment, a stop of which poses an immediate threat to life and health.

Footnote. Article 301, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

### **302. The guarantees to employees in connection with a strike**

1. The organization or participation in strikes (except as provided by paragraph 1 of Article 303 of this Code) can not be considered as an employee's violation of labour

discipline and resulted in the application of disciplinary measures, provided in this Code.

2. At the time of the strike, the employee is retained the job (position), the right to the payment of social security benefits, labour experience, and other guaranteed rights arising from the labour relationship.

During the strike, wages to the participating employees are not saved, unless the strike is held in connection with non-payment or late payment of wages.

### **303. Illegal strikes**

1. Strikes shall be illegal:

1) in the period of martial law or state of emergency or special measures, in accordance with the laws on the state of emergency; in the bodies and organizations of the Armed Forces of the Republic of Kazakhstan and other military units and organizations, responsible for national defense, state security, rescue, search and rescue, fire protection, prevention or elimination of emergency situations; and in special state and law enforcement agencies, in organizations that are hazardous production facilities, at the stations of emergency medical care;

2) in the organizations of railway transport, civil aviation, health care and the organizations, providing the life activity of the population (public transport, water supply, electricity, heat, communication), on a continuously operating production, suspension of which is associated with serious and dangerous consequences in case of non-compliance with the conditions, specified in paragraph 2 of this Article;

3) in case of proclaiming without deadlines, the procedures and requirements, provided in this Code;

4) in cases, where it poses a real threat to the life or health of people;

5) in other cases, provided by the laws of the Republic of Kazakhstan.

In the presence of one of the grounds, specified in this paragraph, the prosecutor has the right to suspend the strike until the court makes a relevant decision.

2. In the organizations of railway transport, civil aviation, health care and the organizations, providing the life activity of the population (public transport, water supply, electricity, heat, communication), the strike is carried out in the case if the list and scope of services necessary for population, which are determined on the basis of prior agreement with the local executive body, are remained.

In continuously operating productions the strike can be taken place, only if the continuous operation of the main equipment and mechanisms is maintained.

3. The decision on the recognition of the strike as illegal is made by the court, in accordance with the laws of the Republic of Kazakhstan.

4. The decision on the recognition of the strike as illegal is made by the court at the request of the employer or the prosecutor.

The court's decision shall be communicated to the employees through the body, heading the strike, which is obliged to immediately inform the strike participants of the court decision, and in the absence of the body, heading the strike they are informed directly by the employer.

The employer shall provide the placement of the text of the court decision in the places, accessible to the general public.

The court's decision on the recognition of the strike as illegal, shall be taken in effect immediately, and the strike shall be stopped.

In case of a direct threat to human life and health, the prosecutor or the court to the decision, has the right to suspend the strike.

5. The body, heading the strike, has the right to appeal the decision of the court, in accordance with the laws of the Republic of Kazakhstan.

**Footnote. Article 303, as amended by the laws of the Republic of Kazakhstan dated 13.02.2012 No. 553-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **304. The consequences of recognition of the strike as illegal**

Upon recognition by the court the strike as illegal, the employer may bring to disciplinary liability of the employees, who took part in the organization or conducting the strike.

#### **305. Prohibition of lockout**

In the settlement of the collective labour disputes, including strikes, the lockouts are prohibited, that is, the termination of the labour contracts with the employees on the initiative of the employer, in connection with their participation in the collective labour dispute or strike, except the case, provided in subparagraph 19) of paragraph 1 of Article 54 of this Code.

**Footnote. Article 305, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **SECTION 5. SAFETY AND LABOUR PROTECTION**

#### **Chapter 33. STATE ADMINISTRATION IN THE FIELD OF SAFETY AND LABOUR PROTECTION**

#### **306. The main directions of the state policy in the field of safety and labour protection**

State policy in the field of safety and labour protection is aimed at:

1) the development and adoption of the regulatory legal acts of the Republic of Kazakhstan in the field of safety and labour protection;



2) is excluded by the Law of the Republic of Kazakhstan dated 03.07.2013 No. 124-V (shall be enforced upon expiry of ten calendar days after its first official publication)

;

3) the establishment and implementation of the systems of economic incentives of work to develop and improve the conditions, work safety and labour protection, and the development and introduction of the safe equipment and technology, the production of the means of labour protection, the individual and collective protection of employees;

4) the monitoring of the safety and labour protection;

5) the conducting research on safety and labour protection;

6) the establishment of a uniform procedure for accounting the industrial accidents and occupational diseases;

7) the state supervision and monitoring of compliance with the legislation of the Republic of Kazakhstan in the field of safety and labour protection;

8) the normative consolidation of the order of social control over the observance of the rights and legitimate interests of employees in the field of safety and labour protection in the organization;

9) the protection of the legitimate interests of employees, affected by the industrial accidents and occupational diseases, as well as the members of their families;

10) the establishment of remuneration conditions for the hard work and work in harmful (particularly harmful) or hazardous working conditions, not removable at the current technical level of production and labour organization;

11) the spread of advanced domestic and foreign experience to improve the working conditions and safety;

12) the training and advanced training for safety and labour protection;

13) is excluded by the Law of the Republic of Kazakhstan dated 19.03.2010 No. 258-IV;

14) the maintenance of a unified information system in the field of safety and labour protection;

15) the international cooperation in the field of safety and labour protection.

**Footnote. Article 306, as amended by the Law of the Republic of Kazakhstan dated 19.03.2010 No. 258-IV, dated 03.07.2013 No. 124-V (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **307. The state administration, control and supervision in the field of safety and labour protection**

The state administration, control and supervision in the field of safety and labour protection are carried out by the Government of the Republic of Kazakhstan, the authorized state body for labour, local body for labour inspection and other authorized state bodies in accordance with their competence.

Footnote. Article 307 is in the wording of the Law of the Republic of Kazakhstan dated 13.06.2013 No. 102-V (shall be enforced upon expiry of ten calendar days after its first official publication).

#### **Article 308. Requirements for safety and labour protection**

1. The requirements for safety and labour protection are established by the regulatory legal acts of the Republic of Kazakhstan and shall contain the rules, procedures and regulations to preserve the life and health of employees in the course of their employment.

2. The requirements for safety and labour protection are binding on employers and employees, in the performance of their activities in the territory of the Republic of Kazakhstan.

Footnote. Article 308, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

#### **309. Monitoring and risk assessment in the field of safety and labour protection**

For a full assessment of the working conditions in the workplace, reduction of the industrial injuries and prevent work accidents, the authorized state body for labour and local body for labour inspection shall organize monitoring and risk assessment in the field of safety and labour protection.

Footnote. Article 309 is in the wording of the Law of the Republic of Kazakhstan dated 13.06.2013 No. 102-V (shall be enforced upon expiry of ten calendar days after its first official publication).

### **Chapter 34. GUARANTEES OF EMPLOYEES IN THE FIELD OF SAFETY AND LABOUR PROTECTION**

#### **310. The guarantee of the rights to safety and labour protection at the conclusion of the labour contract**

1. The labour contract should specify a significant characteristic of working conditions, including harmful and (or) occupational hazards, the guarantees, benefits and compensation payments for work in such conditions, stipulated by the legislation of the Republic of Kazakhstan and the collective contract.

2. The conclusion of the labour contracts with employees, engaged in heavy work or work under harmful (particularly harmful) and (or) hazardous working conditions, as well as in underground work must be made after the passage of a medical examination by a citizen and determination of the absence of contraindications to health in accordance with the requirements, established by the regulatory legal acts of the authorized state body in the field of health.

### **311. The guarantees of the rights of employees on the safety and labour protection in the course of employment activities**

1. Safety conditions in the workplace shall meet the requirements of the national standards and rules on safety and labour protection.

2. At the time of suspension of work due to violation of the requirements for safety and labour protection by the employer, the job (position) and average wages are retained to the employee.

3. The employee's refusal to work in the event of imminent danger to his (her) life and health or the people around them, shall not entail bringing him (her) to the disciplinary and (or) material liability.

4. In the case of the employer's failure to provide the employees with means of individual and (or) collective protection, special clothing, the employee may terminate the execution of work duties, and the employer shall pay the down time incurred for this reason in the amount of average wage of the employee.

5. In the case of infliction of injury to the life and health of employees in the performance of job duties, the compensation of the damage shall be in the manner and on the conditions provided in this Code and the Civil Code of the Republic of Kazakhstan.

**Footnote. Article 311, as amended by the Law of the Republic of Kazakhstan dated 10.07.2012 No. 31-V (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **312. Compulsory medical examination of employees**

1. The employer at his (her) own expense shall arrange the periodic medical examinations and surveys of the employees, engaged in heavy work or work under harmful (particularly harmful) and (or) hazardous working conditions, in accordance with the laws of the Republic of Kazakhstan.

2. The employees, engaged in jobs related to the increased risk, machines and tools, shall pass a pre-shift medical examination. The list of occupations that require pre-shift medical examination is defined by the authorized state body in the field of health.

### **313. Training, instructing and testing the knowledge of employees on safety and labour protection**

1. Training, instructing and testing the knowledge of employees on safety and labour protection are carried out by the employer at his (her) own expense.

2. *Is excluded by the Law of the Republic of Kazakhstan dated 05.07.2011 No. 452-IV (shall be enforced from 13.10.2011).*

3. The hired persons, are required to attend to the preliminary training, organized by the employer before the subsequent mandatory checking of the knowledge on safety

and labour protection. The employees, who have not passed the preliminary training, instructing and testing of the knowledge on safety and labour protection, are not allowed to work.

4. The executives and persons, responsible for the security and labour protection of the organizations, which operate periodically, at least once in three years are required to train and test the knowledge on safety and labour protection in the organizations, engaged in training, retraining and advanced training.

The list of persons, who are subject to training and testing of knowledge, is approved by the act of the employer.

**Footnote. Article 313, as amended by the laws of the Republic of Kazakhstan dated 05.07.2011 No. 452-IV (shall be enforced from 13.10.2011); dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

## **Chapter 35. THE RIGHTS AND DUTIES OF EMPLOYEES AND EMPLOYERS IN THE FIELD OF SAFETY AND LABOUR PROTECTION**

### **314. The employee's rights to safety and labour protection**

The employee has the right to:

1) the work place, equipped in accordance with the requirements of safety and labour protection;

2) the provision of ablution facilities, means of individual and collective protection, special clothing in accordance with the requirements of safety and labour protection, as well as the labour and collective contracts;

3) appeal to the authorized state body for labour and local body for labour inspection on the survey of the conditions and safety at his (her) workplace;

4) participate individually or through a representative in testing and considering the issues, related to improving conditions, safety and labour protection;

5) refuse from the execution of work in the case of a situation, that creates a threat to the health or life, with a written notice to the immediate supervisor or employer;

6) education and professional training, necessary for the safe performance of job duties, in accordance with the laws of the Republic of Kazakhstan;

7) obtain reliable information from the employer about the characteristics of the workplace and the territory of the organization, the working conditions, safety and labour protection, the existing threat to life and health, as well as the measures to protect it from harmful (particularly harmful) and (or) hazardous production factors;

8) save the average salary at the time of the suspension of work of the organization, due to non-compliance with the requirements of safety and labour protection;

9) appeal to the wrongful acts of the employer in the field of safety and labour protection.

Footnote. Article 314, as amended by the Law of the Republic of Kazakhstan dated 13.06.2013 No. 102-V (shall be enforced upon expiry of ten calendar days after its first official publication).

### **315. The responsibilities of an employee in the field of safety and labour protection**

The employee shall:

1) immediately notify his (her) immediate supervisor of all accidents in the workplace, the symptoms of occupational disease (poisoning), as well as a situation that poses a threat to human life and health;

2) pass the mandatory periodic medical examinations and pre-shift medical examination, and the medical examination for transfer to another job in the production necessity or on the appearance of the signs of occupational disease;

3) apply and use the means of individual and collective protection, provided by the employer for their intended purpose;

4) perform the medical and recreational activities prescribed by health care institutions, in the case of their funding by the employer;

5) comply with the requirements of norms, rules and regulations for safety and labour protection, as well as the employer's requirements for work safety in the workplace.

### **316. The employer's rights in the field of safety and labour protection**

The employer has the right to:

1) encourage employees for creation of the favorable conditions in the workplace and the innovative proposals to create safe working conditions;

2) suspend from work and bring to disciplinary liability of the employees, who violate the requirements for safety and labour protection, in the manner prescribed by this Code.

### **317. The obligations of an employer in the field of safety and labour protection**

1. The employer shall:

1) take measures to prevent any risk in the workplace and in technical processes through preventive measures, replacement of production equipment and technical processes for safer;

2) provide education and training of employees for safety and labour protection;

3) conduct organizational and technical measures for safety and labour protection;

4) instruct and provide with documents for the safe conducting of production processes and work;

5) be tested for the safety and labour protection, and organize the knowledge tests for the managers and professionals;

6) create the necessary sanitary and hygienic conditions for employees, provide the delivery and maintenance of special clothing and footwear for employees, supply them with the means of preventive treatment, detergents and disinfectants, med kit, milk,

medical and prophylactic food, and means of personal and collective defense in accordance with the norms, established by the Government of the Republic of Kazakhstan;

7) provide the authorized state body for labour and local body for labour inspection, the employee representatives at their written request, with the information on the state of environment, safety and labour protection, including the information on the certification of production facilities in terms of labour in the organizations;

8) follow the instructions of state labour inspectors;

9) register, record and analyse the accidents and occupational diseases at work;

10) carry out with the participation of representatives of the employees the periodical certification of production facilities in terms of labour at least once every five years, in accordance with regulations, adopted by the Government of the Republic of Kazakhstan;

10-1) provide within a month on paper and electronic media the results of certification of production facilities under the working conditions to the relevant territorial unit of the authorized state body for labour;

11) ensure the investigation of accidents in the workplace, in accordance with the legislation of the Republic of Kazakhstan;

12) insure an employee against accidents in the performance of labour (service) duties;

13) report the cases of acute poisoning to the relevant territorial unit of the authorized state body in the field of sanitary and epidemiological welfare of the population;

14) ensure the safe working conditions;

15) carry out at his (her) own expense the mandatory periodic (for the employment activities) medical examinations and pre-shift medical examinations of employees in the cases, stipulated by the legislation of the Republic of Kazakhstan, as well as at their transfer to another job with the changing of the working conditions or on the appearance of signs of occupational disease;

16) take urgent measures to prevent the development of emergencies and impact of traumatic factors to others.

2. The labour or collective contracts with the specific activities and types of work, the availability of high-risk sources may provide additional obligations of the employer

**Footnote. Article 317, as amended by the Laws of the Republic of Kazakhstan dated 19.12.2007 No. 9-IV (the order of enforcement see Article 2); dated 30.12.2009 No. 234-IV (shall be enforced from 09.08.2010); dated 05.07.2011 No. 452-IV (shall be enforced from 13.10.2011); dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 13.06.2013 No.**



102-V (shall be enforced upon expiry of ten calendar days after its first official publication).

### **318. Funding for safety and labour protection**

Funding for safety and labour protection is made at the expense of the employer and other sources, which are not prohibited by the legislation of the Republic of Kazakhstan.

Employees do not have the expenses for this purpose.

The amount of funds is determined by the collective contract or the act of the employer.

**Footnote. Article 318, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

## **Chapter 36. ORGANIZATION OF SAFETY AND LABOUR PROTECTION**

### **319. Adoption of regulatory legal acts in the field of safety and labour protection**

The regulatory legal acts in the field of safety and labour protection shall set the organizational, technical, technological, sanitary and hygienic, biological, physical and other norms, rules, procedures and regulations to preserve the life and health of employees in the course of their employment activities.

**Footnote. Article 319, as amended by the Law of the Republic of Kazakhstan dated 05.07.2011 No. 452-IV (shall be enforced from 13.10.2011), as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **320. The requirements for safety and labour protection in the design, construction and operation of production facilities and means of production**

1. Design, construction and reconstruction of industrial buildings and facilities, development and use of technology, design and manufacture of machines, tools, equipment that do not meet the requirements of safety and labour protection, are not permitted.

2. New or reconstructing production facilities, means of production or other products may not be accepted and put into service, if they do not comply with the requirements of safety and labour protection.

3. *Is excluded by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (coming into force after ten calendar days after its first official publication).*

4. Acceptance into operation of the facility for production purposes is made by the acceptance committee with mandatory participation of the state labour inspector.

**Footnote. Article 320, as amended by the laws of the Republic of Kazakhstan dated 05.07.2011 No. 452-IV (shall be enforced from 13.10.2011); dated 17.02.2012 No. 566**



**-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **320-1. Certification of industrial facilities for working conditions**

1. The industrial facilities are subject to mandatory periodic certification for working conditions.

2. Certification of industrial facilities for working conditions is carried out by the specialized organizations for the certification of industrial facilities or by the employers, who have the safety and labour protection service and the laboratory for laboratory and instrumental survey of working-environment factors in their organizations, periodically at least once every five years.

3. The procedure for mandatory periodic certification of industrial facilities for working conditions is determined by the Government of the Republic of Kazakhstan.

4. Unscheduled certification of industrial facilities for working conditions is carried out at the request of the body for the state supervision and control over safety and labour protection in detecting the violation of the procedure for certification of industrial facilities for working conditions.

Results of the unscheduled certification of industrial facilities for working conditions are issued as an annex to the materials of the prior certification of industrial facility for working conditions.

5. Control over the timeliness and quality of the certification of industrial facilities is carried out by state labour inspectors.

**Footnote. Chapter 36 is supplemented by Article 320-1 in accordance with the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **321. The requirements for safety of workplaces**

1. Buildings (facilities), where situated the workplaces, by their construction shall comply with their purpose of function and the requirements for safety and labour protection.

2. Work equipment must meet the safety standards, established for this type of equipment, have the appropriate technical certificates (certificate), warning signs and be provided with guards or protective devices to ensure the safety of employees in the workplace.

3. Emergency routes and exits of employees from the premises must be left open and lead to the open air or to a safe area.

4. The hazardous areas should be clearly marked. If the jobs are located in the hazardous areas, where due to the nature of work the risk to the employee or falling objects would be, the places shall be equipped with the devices, which block the access to these areas for outsiders. Through the territory of the organization pedestrians and technological vehicles must travel in safety conditions.

5. Employees shall have the personal protective equipment for use in hazardous production facilities (stations), including on high, ground conditions, the open cells, offshore of seas and inland waters.

6. During working hours, the temperature, natural and artificial lighting and ventilation in the room where are the jobs, must meet the safe working conditions.

7. Employees are allowed to work in hazardous working conditions (dust, pollution and other factors), when the employer ensures the safe working conditions.

**Footnote. Article 321, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

## **Chapter 37. INVESTIGATION AND REGISTRATION OF ACCIDENTS AND OTHER DAMAGE TO HEALTH OF EMPLOYEES, RELATED TO THE WORK ACTIVITY**

### **322. General provisions for investigation and registration of accidents at work**

1. The cases of damage to the health of employees, related to their work activity and leading to disability or death, shall be a subject to investigation and registration, in accordance with this Code, and also:

1) the persons, who are studying in educational institutions, which implement educational programs of technical and professional education, post-secondary, higher and postgraduate education, during their vocational practice;

2) the military personnel, officials of special government agencies, involved in the performance of work, which is not related to military service, service in special government bodies;

3) the persons, engaged to labour by a court;

4) the personnel of the militarized rescue units, paramilitary security, members of the volunteer team to the rectification of the consequences of accidents, natural disasters, and saving the human lives and property.

2. The accidents at work, industrial injuries and other damage to the health of employees, related to the performance of job duties, or other actions, committed on his (her) own initiative in the interest of the employer, which lead to disability or death, shall be subject to investigation and registration, if they occurred:

1) before starting or upon the ending of working time, in preparation and arrangement of the workplace, the means of production, personal protective equipment and others;

2) during the normal working hours in the workplace or on a business trip or in another location, and the location in which was due to the performance of labour or other duties, related to the request of the employer or officer of the organization;

3) as a result of exposure to hazardous and (or) harmful factors;

4) during the working time, by the way of the employee, whose activity is connected with the movement of objects between services, to the workplace on the instructions of the employer;

5) on the transport of the employer, during the performance of employee duties;

6) on the private transport, with the written consent of the employer to the right of use it for business travel;

7) during their stay under the order of the employer in the territory of his (her) or other organization, as well as in the protection of the employer's property or other actions, performed on his (her) own initiative, in the interest of the employer;

8) before starting or upon the ending of working time of employees, who are working on a rotational basis, on the way from the place of collection (residence during the rotation shift) to work or back on the transport, presented by the employer.

3. The industrial injuries and other damage to the health of employees at work are not recorded, if during the investigation of which is objectively determined that they are occurred:

1) when the victim on his (her) own initiative performs the work, or other activities, which are not included in the responsibilities of the employee and related to the employer's interest, including in the period of rest between shifts at rotational work, breaks for rest and meals, as well as for the reason, related to the influence of alcohol, and the use of toxic and drugs (their analogues);

2) as a result of the intentional (intentional) infliction of harm to own health or the commission of criminal offence by the victim;

3) due to a sudden health deterioration of the victim, which is confirmed by the medical report and not associated with exposure to hazardous and (or) harmful factors.

4. Victim or witness shall immediately notify the employer or work organizer about every accident. The responsible officials of health care organizations shall inform, no later than two working days, the employers and the territorial division of the state labour inspection of each case of primary treatment of an injury or other damage to the health of employees at work, as well as the cases of acute occupational disease (poisoning) - to the state body for sanitary and epidemiological welfare of the population.

5. The employer shall bear the responsibility for organizing the investigation, execution and registration of industrial accidents at work.

**Footnote. Article 322, as amended by the Laws of the Republic of Kazakhstan dated 27.07.2007 No. 320 (the order of enforcement see Article 2); dated 13.02.2012 No. 553-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 13.06.2013 No. 102-V (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **323. The obligations of the employer in case of accident in production**

1. The employer shall:

- 1) provide the first aid to the injured and if necessary, his (her) delivery to the health care organization;
- 2) take the immediate measures to prevent the development of an emergency situation and the impact of the factors, due to which the accident was occurred, to other persons;
- 3) keep to the investigation of the situation, the scene at the place of an accident (the state of equipment and machinery, tools) in the same form as in the time of the accident, on condition, that it does not threaten the lives and health of others, and discontinuity of the production process does not lead to the accident, and photograph the place of an accident;
- 4) immediately report about the accident in the production of the close relatives of the victim and send a message to the state bodies and organizations, established by this Code and other regulatory legal acts;
- 5) investigate the accidents in the production and record them in accordance with this Chapter;
- 6) allow to the members of the special investigation commission to go to the scene of accident to investigate the accident at work;
- 7) register, record and analysis the accidents and occupational diseases in the production.

2. The employer shall, about an accident at work immediately in the form, prescribed by the authorized state body for labour, inform:

- 1) the territorial division of the state labour inspection of the authorized state body for labour;
- 2) the local bodies for prevention and relief of emergency situations in case of accidents, which are occurred at hazardous industrial facilities;
- 3) the territorial division of the authorized state body in the field of sanitary and epidemiological welfare of the population in cases of occupational disease or poisoning ;
- 4) the representatives of the employees;
- 5) the insurance company, with which concluded a contract of insurance against accidents of the employee in the performance of labour (service) duties.

Upon the occurrence of an accident, which is subject to special investigation in accordance with this Chapter, the employer shall inform:

- 1) the law enforcement agency for the place, where the accident occurred;
  - 2) the competent authorities for industrial and institutional control and supervision.
3. When investigating an industrial accident, at the request of the commission the employer's at the own expense provides:

1) the performance of engineering design, laboratory research, testing and other expert services and attraction to this purpose of the professional experts;

2) the photographs of the scene of occurrence and the damaged facilities, development of plans, sketches, diagrams;

3) the provision of transport, office, communication equipment, special clothing, footwear and other personal protective equipment necessary to conduct the investigation;

4) the submission of:

the documents that describe the state of the workplace, the presence of hazardous and (or) harmful factors (plans, sketches, diagrams, and if necessary - photos and video of the scene, etc.);

the extracts from logs, briefings and checking protocols of the affected on the safety and labour protection, the polling protocol of the witnesses and officials upon the accident, the explanations of the affected and expert opinions of the professionals;

the results of laboratory studies and experiments;

the medical opinion on the nature and severity of the damage, caused to the health of the victim, or the reason of his (her) death, the presence (absence) of symptoms of alcohol, drugs or toxic substances;

the copies of documents, confirming the issuance to the victim of special clothing, footwear and other personal protective equipment;

the statements of previously issued for this work (the object) regulations of the state labour inspectors and officials of the territorial bodies of the state supervision (if the accident occurred in the organization or at the facility under the control of that body), as well as the extracts from the representations of social labour inspectors to eliminate violations of regulatory requirements for safety and labour protection;

other documents, that at the discretion of the Commission related to the consideration of case.

**Footnote. Article 323, as amended by the Laws of the Republic of Kazakhstan dated 04.12.2008 No. 97-IV (the order of enforcement see Article 2); dated 30.12.2009 No. 234-IV (shall be enforced from 09.08.2010); dated 13.06.2013 No. 102-V (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **324. The procedures for investigating accidents in production**

1. Investigation of accidents in production, except the cases, which are subject to special investigation, is carried out by the commission created within twenty-four hours from the time of its occurrence by the act of the employer, in the following composition:

Chairman – a Head of the organization (production services) or his (her) deputy;

Members – a Head of safety and labour protection service of the organization and a representative of the employees.

Official, who is directly responsible for safety in the relevant area, where the accident has occurred, during the investigation to the composition of the commission is not included.

2. Special investigation shall be for:

- 1) the accidents with severe or fatal;
- 2) the group accident that occurred simultaneously with two or more employees, regardless of the severity of injuries suffered;
- 3) the group cases of acute poisoning.

3. In the investigation of an accident at work for the employer – individual involved the employer or his (her) authorized representative, the representative of employees, work safety officer, who may be involved in the investigation of the accident on a contractual basis.

4. In the case of acute poisoning, in the commission's investigation the representatives of state authority in the field of sanitary and epidemiological welfare of the population are attended.

5. The representative of the insurance agency, who has a contractual relationship with the employer or the injured is entitled to participate in the work of the commission

6. The investigation term of an accident shall not exceed ten working days from the date of creation of the commission.

7. The investigation of an accident, occurring to persons who are passing the practical training, studying at secondary, vocational and higher education, is carried out by the commission created by the head of the organization in whose territory the incident has occurred, involving the employer and the representative of the victim.

8. The investigation of an accident that occurred with the employee of the organization, which is located and leading work in the territory of another organization, or to the employee directed to another organization to perform the production task (professional or contractual obligations), is held directly by the employer with the responsible representative of the organization, on whose territory the accident has occurred.

9. The accident, which occurred with the employee in the performance of part-time work, is investigated and taken into account by the employer in whose territory or on behalf of whom the work performed.

10. The investigation of accidents that have occurred as a result of accidents of vehicles shall be carried out on the basis of the investigation of the traffic police.

The traffic police within five days of the traffic accident, at the request of Chairman of the commission on the accident investigation, must submit a copy of the investigation materials.

11. In each case of the investigation of an industrial accident, the commission shall identify and interview eye-witnesses of the incident, the persons, who violate the requirements for safety and labour protection, and get the necessary information from the employer, and if possible an explanation of the victim.

12. The accidents, which were not promptly reported to the employer or as a result of which the disability did not occurred at once (regardless of the statute of limitations) , should be investigated at the request of the victim (or his representative) or on the instruction of the state labour inspector within ten days from the date of registration of the application and obtaining an order.

13. Based on the collected documents and materials, the commission shall determine the circumstances and causes of the accident, and determines the relationship of the accident with the production activities of the employer and, therefore, if the staying of the affected at the scene was due to the execution of his (her ) job duties or as an accident, not related with the production, and determines the persons, who violate the safety and labour protection, and measures to eliminate the causes and prevention of accidents in production.

14. The working conditions of the commission on the investigation of the accidents at sensitive sites, are determined by the characteristics of the access and location on these objects.

15. Every accident, associated with the production and causing an employee's ( workers) disability, according to the medical report (recommendation) is executed by an act of the accident in the form established by the authorized body for labour, in the required number of copies (for each victim separately).

The poisoning cases, confirmed in due form by the health care organization are executed by the act of an accident, regardless of whether there is or is not a disability.

### **325. Features of a special investigation of accidents in production**

1. Special investigation of the accident is carried by the commission created by the territorial division of the state labour inspectorate, in the following composition:

Chairman – a State labour inspector;

members - the employer and employee representatives.

2. The investigation of group accidents, where two people killed, is carried out by the commission headed by the chief state labour inspector of the region, the city of republican significance.

3. In case of accidents, which have occurred at hazardous industrial facilities, the state inspector for the prevention and elimination of emergency situations shall be included in the composition of commission.

In accidents, which are occurred in technogenic emergencies, the state inspector for prevention and liquidation of emergency situations shall be appointed as the Chairman



of the special investigation. In this case, the state labour inspector shall be a member of the commission.

4. The investigation of group accidents, where three to five people have killed, is carried out by the commission created by the authorized state body for labour, and at the death of more than five people - by the Government of the Republic of Kazakhstan.

5. To address the issues that require the expert testimony, the Chairman of the special investigation may establish the expert subcommittee from the number of professionals, scientists and regulatory bodies of the organizations.

6. Investigating of an accident with bad or fatal case, the group accident and the group cases of acute poisoning of employees, is executed by a special act of the investigation in the form, prescribed by the authorized state body for labour.

7. Conducting the interrogation of witnesses, eye-witnesses and the parallel investigations of the accident by someone or other commission in the days of the formally appointed commission without the consent of the Chairman of special investigation, is strictly prohibited.

8. Completion of searching of the victim (s), missing (lost) person, due to the explosion, accidents, damage, fire and other events on the premises of the organization, is defined by the Commission for special investigation upon the advice of the head of the rescue units and experts.

**Footnote. Article 325, as amended by the Laws of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 13.06.2013 No. 102-V (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **326. Issuing the materials of investigation of the industrial accidents and their recording**

1. The act of the accident shall be completed and signed by the head of safety and labour protection service of the organizational units, as well as by a representative of the employees of the organization, and shall be approved by the employer and seal of the organization.

2. In cases of poisoning, the act of the accident is also signed by a representative of the state body in the field of sanitary and epidemiological welfare of the population.

If the employer is an individual, the act of the accident is completed and signed by the employer and certified by a notary.

3. The act must be executed in accordance with the materials of the investigation.

If during the investigation of an industrial accident, the commission found that gross negligence was the cause or increase of the damage, the Commission shall apply mixed liability of the parties and determine the degree of fault of the employee and the employer in percentage.

If one member of the commission for investigation of the accident, did not agree with the conclusions of the commission (the majority), he shall represent in the written form his (her) reasoned opinion to include it in the material of the investigation. The act of the special investigation is signed with subject to a proviso “see dissenting opinion”.

4. After the investigation of each accident, the employer shall provide the victim or his (her) authorized representative by the act of the accident within three days, a copy of the act shall be sent to the insurance agency that has a contractual relationship with the employer, and the other to the state labour inspection, in paper and electronic form.

In case of poisoning, a copy of the act shall be sent to the state bodies in the field of sanitary and epidemiological welfare of the population.

5. In case of disagreement with the results of the investigation or late registration of the act of an accident, the victim or his (her) representative, the representative of employees of the organization have the right to write to the employer, who shall consider the application and decide on the merits within ten days.

6. Disagreements regarding the investigation, execution and recording of accidents between the employer, employee and the state labour inspector or with the state inspector for the prevention and elimination of emergency situations in cases, which are occurred in hazardous industrial facilities, shall be considered in the subordination to the relevant superior chief state labour inspector and (or) in a judicial proceeding.

Solution of the superior chief state labour inspector regarding the investigation of accidents, is executed in the form of the conclusion drawn in the form, prescribed by the authorized state body for labour.

7. The copies of the act’s materials for a special investigation of the accident shall be transferred by the employer to the state control bodies. In addition, at the end of the accident investigation, one copy of the act’s materials for special investigation shall be sent by the state labour inspector to the local police within seven days, who in accordance with the legislation shall take appropriate decision and report on the decision no later than twenty days.

8. Every accident, executed by the act shall be registered in the log of accidents and other injuries to health at the place of production. Logging is performed in the form, prescribed by the authorized state body for labour. Primary statistical data on temporary disability and injury are presented in accordance with the statistical methodology, which is approved by the authorized body in the field of statistics.

9. *Is excluded by the Law of the Republic of Kazakhstan dated 19.03.2010 No. 258-IV.*

10. The employer or his (her) representative shall notify the appropriate state labour inspection about the industrial accidents, which over time have moved into the

category of serious or fatal accident, and on the insurance cases - the executive body of the insurer (at the place of registration of the insured).

11. Proceedings of the accident investigation shall be kept in the organization for forty-five years, and in the event of liquidation, the materials of the accident investigation shall necessarily be transferred to the State Archives at its place of work.

12. Investigation materials of the industrial accidents, along with the act of the investigation should include:

1) the information on the passage by the affected training and instruction on labour safety, as well as preliminary and periodic medical examinations;

2) the polling protocols in the form, prescribed by the authorized state body for labour, and explanations of eyewitnesses and officials, who are responsible for compliance with the requirements of safety and labour protection;

3) the plans, diagrams and photographs of the scene;

4) the extracts from instructions, regulations, orders and other acts, regulating the requirements for safety and labour protection, the duties and responsibilities of officials to ensure healthy and safe working conditions at work, etc.;

5) the medical report on the nature and severity of the damage to the health of the affected (cause of death);

6) the results of laboratory and other studies, experiments, examinations, tests and etc.;

7) the conclusion (if any) of the state labour inspector;

8) the information on the material damage, caused to the employer;

9) the order of the employer on compensation to the affected (family members) of the damage to his (her) health and bringing to the responsibility of the officials, who are guilty for the case;

10) the list of attached documents.

13. The victim or the representative of the employees have the right to examine all materials of the accident investigation and execute the necessary statements.

**Footnote. Article 326, as amended by the Laws of the Republic of Kazakhstan dated 19.03.2010 No. 258-IV; dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 13.06.2013 No. 102-V (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **327. Control over the correct, timely investigation and recording of accidents**

The state labour inspectors within their competence through inspections, processing of complaints, applications of citizens and survey of organizations shall control over the correct, timely investigation and recording of accidents, as well as the implementation of measures to eliminate the causes of these cases. Audits of the state labour inspectors in the investigation of industrial accidents, as well as control over the

implementation of measures to eliminate the causes of these cases are not subject to registration and recording in accordance with the legislation of the Republic of Kazakhstan on state legal statistics and special accounts.

## **SECTION 6. CONTROL OVER THE COMPLIANCE WITH THE LABOUR LEGISLATION OF THE REPUBLIC OF KAZAKHSTAN**

### **Chapter 38. STATE CONTROL**

#### **328. State control in the field of labour legislation of the Republic of Kazakhstan**

**Footnote. Title of Article 328, as amended by the Law of the Republic of Kazakhstan dated 17.07.2009 No. 188-IV (the order of enforcement see Article 2).**

1. State control over the compliance with the labour legislation of the Republic of Kazakhstan in the organizations is carried out by state labour inspectors.

2. The state labour inspectors are:

1) the Chief Inspector of Labour of the Republic of Kazakhstan is a Head of the State Labour Inspectorate of the authorized state body for labour of the Republic of Kazakhstan;

2) the chief state labour inspectors of the state labour inspectorate are the officials of the state labour inspectorate of the authorized state body for labour;

3) the chief state labour inspector of the region, the city of republican significance and the capital is a head of the regional, city of republican significance and the capital territorial division of the state labour inspectorate of the authorized state body for labour;

4) the state labour inspectors are the officials of the regional, city of republican significance and the capital territorial division of the state labour inspectorate.

3. The state labour inspectors on duty are protected by the law and based on the Constitution of the Republic of Kazakhstan, the laws and other regulatory legal acts of the Republic of Kazakhstan.

4. The individuals, precluding the state labour inspector in the performance of official duties, shall be liable in accordance with the laws of the Republic of Kazakhstan.

5. State control over the compliance of members of the regional financial center with the labour legislation of the Republic of Kazakhstan is carried out by the authorized state body for regulation of the activity of the regional financial center of Almaty city.

Authorized officials, exercising the state control over the compliance of the participants of the regional financial center of Almaty city with the labour legislation of the Republic of Kazakhstan shall be equated with the state labour inspectors and exercise the powers provided in this Code.

Authorized state body for regulation of the activity of the regional financial center of Almaty city shall:

1) inform within its jurisdiction the authorized state body for labour of any violations of the labour legislation of the Republic of Kazakhstan;

2) provide quarterly to the authorized state body for labour the information of execution the requirements of the labour legislation of the Republic of Kazakhstan in accordance with the form, established by the authorized state body for labour.

6. State control in the field of labour legislation of the Republic of Kazakhstan is in the form of checks and other forms.

Examination shall be carried out in accordance with the Law of the Republic of Kazakhstan “On State Control and Supervision in the Republic of Kazakhstan”. Other forms of state control are carried out in accordance with this Code.

**Footnote. Article 328, as amended by the laws of the Republic of Kazakhstan of 19 December, 2007 No. 9-IV (the order of enforcement see Article 2); dated 17.07.2009 No. 188-IV (the order of enforcement see Article 2); dated 06.01.2011 No. 378-IV ( shall be enforced upon expiry of ten calendar days after its first official publication); dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **329. The principles of activity and basic tasks of the State Labour Inspectorate**

The activity of the state labour inspectorate is based on the principles of respect, observance and protection of the rights and freedoms of employees, legality, objectivity, independence and transparency.

The basic tasks of the state labour inspectorate are:

ensuring the state control over observance of the labour legislation of the Republic of Kazakhstan in the organizations;

ensuring the observance and protection of the rights and freedoms of employees, including the right to safe working conditions;

consideration of appeals, applications and complaints of employees and employers on the labour legislation of the Republic of Kazakhstan.

### **330. The rights of state labour inspectors**

In the exercise of state control over the observance of the labour legislation of the Republic of Kazakhstan, the state labour inspectors have the right to:

1) free access to organizations and companies for the purpose of verification the compliance with the labour legislation;

2) request and receive documents, explanations, information needed to perform their functions from employers;

3) issue binding for the employers regulations, conclusions and make up protocols and regulations on administrative offences, impose administrative penalties;

4) give explanations on matters, within their competence;

5) suspend (prohibit) the activities of organizations, individual industries, shops, sites, jobs and operation of equipment, devices when identifying non-compliance with regulatory legal acts on safety and labour protection for a period of three days with the obligatory presentation the claim to the court in this period;

6) prohibit the issue and use at work the special clothing, special footwear and other means of individual and collective protection, that do not meet the requirements established for them;

7) take for analysis the samples of special clothes, used or processed materials and substances with a notice to the employer (or his (her) representative) and drawing up the relevant act;

8) investigate the industrial accidents, in the prescribed manner;

9) issue the binding on the employers regulations on the dismissal from work of the employees, who have not been training, instructing, and testing on safety and labour protection;

10) sent to the appropriate law enforcement agencies and courts the information, claims and other materials for violations of the labour legislation of the Republic of Kazakhstan and non-performance by the employers the acts of state labour inspectors;

11) participate in the testing of knowledge on safety and labour protection;

12) verify the fulfillment of special conditions, defined in granting the permission to hire foreign employees;

13) exercise control over the completeness and accuracy of the employer's internal control on safety and labour protection;

14) exercise other rights, provided by the legislation of the Republic of Kazakhstan.

**Footnote. Article 330, as amended by the Law of the Republic of Kazakhstan dated 05.07.2011 No. 452-IV (shall be enforced from 13.10.2011).**

### **331. Obligations of state labour inspectors**

State labour inspectors shall:

1) control the execution of the labour legislation of the Republic of Kazakhstan;

2) conduct an inspection on observance of the labour legislation of the Republic of Kazakhstan in a timely manner;

3) inform employers (their representatives) of the detected violations of labour legislation in order to take measures to eliminate them, make representations on bringing the guilty persons to justice;

4) in a timely manner consider the appeals of employees and employers on the application of the labour legislation of the Republic of Kazakhstan;

5) identify the reasons and circumstances that lead to violations of the labour legislation, make recommendations for their elimination and restoration of the violated labour rights;

6) take part in the investigation of accidents and occupational diseases at work;

7) collect and conduct the analysis and synthesis of the causes of violations of the labour legislation, participate in the development and adoption of measures for the implementation of measures, aimed at strengthening the efforts to prevent violations of the labour legislation of the Republic of Kazakhstan;

8) not disclose the information, that constitutes the state secrets, official, commercial or other secrets protected by law, which became known to him (her) in connection with the performance of job duties;

9) conduct educational work on the application of the labour legislation of the Republic of Kazakhstan;

10) interact with the citizens and the employees' representatives in the monitoring of safety and labour protection.

### **332. The rights and obligations of the employer during the control of the state labour inspector**

1. Employer during the state control over the observance of labour legislation of the Republic of Kazakhstan shall be entitled:

- 1) to represent to the state labour inspector the notes on the acts of checks;
- 2) not to represent the information and documents, if they are not relevant to the subject of the conducted inspection;
- 3) to appeal against the act of the inspection results and actions (inaction) of the state labour inspector, in accordance with the legislation of the Republic of Kazakhstan

2. Employer during the state control over the observance of the labour legislation of the Republic of Kazakhstan shall:

- 1) provide the easy access (visit) of the state labour inspector to the territory and premises of the inspected object;
- 2) represent to the state labour inspector and representatives of employees of the organization performing the inspection, the documents (information) in paper and electronic form or their copies to attach to the act on the inspection results, as well as access to the automated databases (information systems) in accordance with the objectives and purpose of inspection;
- 3) accept for execution the acts of the state labour inspector and do the corresponding mark on the receipt on the second copy of the act;
- 4) provide the information on the execution of the acts of state labour inspectors at the appropriate time.

### **333. Acts of the state labour inspectors**

1. Depending on the violations of the labour legislation of the Republic of Kazakhstan, a state labour inspector shall draw up (make) the following acts:

- 1) improvement notice:



to eliminate violations of the requirements of the labour legislation of the Republic of Kazakhstan;

to conduct preventive measures on safety and labour protection at industrial facilities and equipment, as well as in production processes to prevent traumatic and emergency situations;

to prohibit (suspension) the operation of certain facilities, shops, sites, jobs, and the equipment and the activity of the organization as a whole. In this case, the act of prohibition (suspension) of the organization shall act before the delivery of the judgment;

2) the administrative offence report;

3) the decision on termination of proceedings in case of an administrative offence;

4) the judgment in the case of an administrative offence.

2. The acts of state labour inspector are legal measures of exposure to violations of the requirements of the labour legislation of the Republic of Kazakhstan by the employers and officials. The acts shall be made in two copies, one of which is given against signature to the employer.

3. The acts of state labour inspectors are mandatory for officials, individuals and legal entities.

The form of the acts of state labour inspector is approved by the authorized state body for labour.

**Footnote. Article 333, as amended by the Law of the Republic of Kazakhstan dated 17.07.2009 No. 188-IV (the order of enforcement see Article 2).**

### **334. Checking on the compliance with the labour legislation of the Republic of Kazakhstan, their types, forms and deadlines**

**Footnote. Article 334 is excluded by the Law of the Republic of Kazakhstan dated 17.07.2009 No. 188-IV (the order of enforcement see Article 2).**

### **335. The order of appealing the decisions, actions (inaction) of the state labour inspector, exercising the state control**

1. In case of violation of the rights and legitimate interests of the employer in the performance of the state control, the employer has the right to appeal against actions (inaction) of the state labour inspector to the authorized state body for labour, higher state inspector and (or) to the court in accordance with the legislation of the Republic of Kazakhstan.

2. Chief state inspector of labour of the Republic of Kazakhstan or the chief state labour inspector of the region, the city of republican significance, capital may, before making an application (complaint) of individuals and (or) legal entities on actions (inaction) or the acts, suspend execution, cancel or revoke the acts of the lower state labour inspector. An appeal does not suspend the execution of the issued acts of the state labour inspectors.

Footnote. Article 335 as amended by the Law of the Republic of Kazakhstan dated 13.06.2013 No. 102-V (shall be enforced upon expiry of ten calendar days after its first official publication).

### **336. The interaction of the state labour inspection with other state bodies and organizations**

1. The State Labour Inspectorate carries out its activities in interaction with other state bodies of supervision and control, with employees' representatives, associations and other organizations.

2. The state bodies are obliged to assist to the state labour inspector in the fulfillment of tasks to control the performance of the labour legislation of the Republic of Kazakhstan.

### **337. The responsibility of the state labour inspector in the performance of the state control**

State Labour Inspector in case of non-performance or improper performance of his (her) duties in the state control, as well as in case of performance other illegal actions (inaction) shall bear the responsibility, established by the laws of the Republic of Kazakhstan.

## **Chapter 39. INTERNAL CONTROL OVER THE SAFETY AND LABOUR PROTECTION**

### **338. Internal control over the safety and labour protection**

1. Internal control shall include the creation and implementation of the safety management system of the organization, monitoring the state of working conditions, an operational analysis of the data of the industrial control, risk assessment and taking the measures to eliminate the detected inconsistencies with the requirements for safety and labour protection.

2. Internal control over the safety and labour protection is carried out by the employer in order to comply with the requirements for safety and labour protection in the workplace and to take immediate actions to eliminate the detected violations.

Footnote. Article 338, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

### **339. The mechanism of internal control over the safety and labour protection**

1. In order to carry out the internal control over the compliance with safety and labour protection in the organizations, carrying out production activities, with more than fifty employees, the employer shall create the work safety service, which reports directly to the first head of the organization or a person duly authorized by him (her).

2. The authorized state body for labour shall develop the model regulations for the work safety service of the organization.

3. Employer with the number of employees less than fifty, shall introduce the position of the specialist for work safety with the specificity of activities or shall assign the security responsibilities to another specialist.

4. The work safety service or the expert, specified in paragraph 3 of this Article, shall be entitled to:

- 1) visit and inspect freely the production, domestic and other premises;
- 2) monitor the development and implementation of preventive measures to create safe and healthy working conditions and prevent the occupational accidents and diseases in the structural units of the organization;
- 3) provide the employees of the structural units of the organization with the compulsory instructions on taking measures to eliminate the identified violations of safety and labour protection.

5. The work safety service or the expert, specified in paragraph 3 of this Article shall:

- 1) analyze monthly the conditions and causes of industrial accidents and occupational diseases in the organization and develop the measures to prevent them;
- 2) organize training, testing on safety and labour protection of employees of organizations;
- 3) ensure the compliance with the order of investigation of industrial accidents in organizations.

**Footnote. Article 339, as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **339-1. The Committee of safety and labour protection (commission) in organizations**

1. The Committee (commission) of safety and labour protection shall be created on the initiative of the employer and (or) the employee or their representatives. The representatives of employers and trade unions or other authorized representatives of the employees shall be included in its composition on a parity basis.

2. The Committee (commission) of safety and labour protection shall organize the joint actions of the employer and employees to ensure the safety requirements, to prevent the industrial accidents and occupational diseases, as well as arrange the inspections of working conditions and safety in the workplaces and inform the employees of the results of these inspections, and collection of the offers to the section of the collective contract (agreement) on the labour protection.

**Footnote. Chapter 39 is supplemented by Article 339-1 in accordance with the Law of the Republic of Kazakhstan dated 17.02.2012 No. 566-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

## **Chapter 40. SOCIETAL CONTROL OVER THE COMPLIANCE WITH THE LABOUR LEGISLATION OF THE REPUBLIC OF KAZAKHSTAN**

### **340. Societal control over the compliance with the labour legislation in the organization**

1. Societal control over the safety and labour protection in the organization is carried out by social inspector for labour protection, elected by the trade union committee of the organization, and in the absence of a trade union – by the general meeting (conference) of employees.

2. Republican, branch, regional associations of employees shall exercise the societal control over the observance of the labour legislation in the organizations, on the condition of providing that right in the agreements and collective contracts.

### **341. The rights of social inspectors for labour protection**

Social inspector for labour protection has the right to:

1) protect the rights of employees to work safety before the employer through the societal control over the observance by the employers of the regulatory legal acts on work safety, agreements, and collective contracts on the creation by the employer of the normal working conditions and safety in the workplaces of organizations;

2) participate in the investigation of industrial accidents and in the comprehensive inspections of work safety, conducted by the social inspectors for labour;

3) obtain information and explanations in writing from employers and other officials of the organization, which are needed to perform their functions;

4) verify that the employer performs the obligations under the agreements and collective contracts in terms of work safety, and make to the officials under the inspection results the proposals to eliminate the violations;

5) take part in the commission for testing and acceptance for operation of production facilities and means of production;

6) participate in the development of regulatory legal acts on labour protection and make own proposals;

7) apply to the relevant state bodies with the requirements of prosecuting of the employers and other officials of the organizations, who are guilty of violating the legislation of the Republic of Kazakhstan on safety and labour protection, the provisions of agreement and collective contracts in terms of safety, hiding industrial accidents and occupational diseases;

8) take part in the settlement of labour disputes, related to the change of working conditions, violation of the legislation of the Republic of Kazakhstan on safety and labour protection, non-execution of the obligations under the agreements and collective contracts, as well as the labour contracts in terms of safety and labour protection;

9) apply under the notice of an employee with claims to the courts to protect the rights of employees on the compensation for damage, caused as a result of injury or other damage to health in connection with the performance of job duties, and in other cases of impairment of the rights of employees to safety and labour protection.

The President of the  
Republic of Kazakhstan

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