

On approval of the Rules for establishing a quota for attracting foreign labour to the Republic of Kazakhstan and its distribution between regions, cities of republican significance, the capital of the Republic of Kazakhstan, determining the list of persons whose labour activity does not require permission from local executive bodies to attract foreign labour, and recognition invalidated some decisions of the Government of the Republic of Kazakhstan

Invalidated Unofficial translation

Resolution of the Government of the Republic of Kazakhstan No. 802 dated December 15, 2016. Abolished by the Decree of the Government of the Republic of Kazakhstan dated 11/24/2023 No. 1041

Unofficial translation

Footnote. Abolished by the Decree of the Government of the Republic of Kazakhstan dated 11/24/2023 No. 1041 (effective after ten calendar days after the date of its first official publication).

Footnote. The heading - as amended by Decree of the Government of the Republic of Kazakhstan dated 28.04.2022 No. 256 (shall be enforced ten calendar days after the day of its first official publication).

In accordance with clause 1 of Article 37 of the Law of the Republic of Kazakhstan of July 22, 2011 "On Migration of population", subparagraph 2) of Article 6, sub-item 11) of paragraph 2, and clause 3 of Article 32 of the Law of the Republic of Kazakhstan of April 6, 2016 "On Employment" The Government of the Republic of Kazakhstan **RESOLVES THAT:**

Footnote. Heading as amended by the Resolution of the Government of the Republic of Kazakhstan No. 501, dated 11.08.2018 (shall be enforced upon the expiry of ten calendar days after its first official publication).

1. Attached hereto shall be approved Rules for the setting quotas for engagement of foreign labor force to the Republic of Kazakhstan and its distribution among the regions of the Republic of Kazakhstan.

2. To define:

1) Being excluded by the Resolution of the Government of the Republic of Kazakhstan No. 501, dated 11.08.2018 (shall be enforced upon the expiry of ten calendar days after its first official publication).

2) a list of persons whose employment does not require permits from local executive bodies for the engagement of foreign labor force, in accordance with appendix 2 to this resolution.

Footnote. Item 2, as amended by the Government of the Republic of Kazakhstan No. 501, dated 11.08.2018 (shall be entered into force upon the expiry of ten calendar days after its first official publication).

3. To declare to be no longer in force some decisions of the Government of the Republic of Kazakhstan in accordance with Annex 3 to this resolution.

4. This resolution becomes effective from the date of its first official publication, but not earlier than January 1, 2017.

*Prime Minister
of the Republic of Kazakhstan*

B. Sagintayev

Approved
by Resolution No.802
of the Government of the
Republic of Kazakhstan
dated December 15, 2016

The Rules

for establishing a quota for attracting foreign labour to the Republic of Kazakhstan and its distribution between regions, cities of republican significance, the capital of the Republic of Kazakhstan

Footnote. The heading - as amended by Decree of the Government of the Republic of Kazakhstan dated 28.04.2022 No. 256 (shall be enforced ten calendar days after the day of its first official publication).

Chapter 1. General Provisions

1. These Rules for establishing a quota for attracting foreign labour to the Republic of Kazakhstan and its distribution between regions, cities of republican significance, the capital of the Republic of Kazakhstan (hereinafter referred to as the Rules) have been developed in accordance with the laws of the Republic of Kazakhstan "On Employment", "On Population Migration" and shall determine the procedure for establishing a quota for attracting foreign labour to the Republic of Kazakhstan and its distribution between regions, cities of republican significance, the capital of the Republic of Kazakhstan.

Footnote. Paragraph 1 - as amended by the Decree of the Government of the Republic of Kazakhstan dated 28.04.2022 No. 256 (shall be enforced ten calendar days after the day of its first official publication).

2. Provisions of these Rules shall not apply to foreign nationals and stateless persons engaged in labor activities on the territory of the Republic of Kazakhstan as part of an intra-corporate transfer.

3. The following basic concepts shall be used in these Rules:

1) labor immigrants - immigrants who arrived in the Republic of Kazakhstan as domestic workers in order to perform work (render services) for employers - individuals in the household on the basis of a permit for a labor immigrant;

2) employer - a legal entity or an individual with whom the worker has an employment relationship;

3) labor force - employed and unemployed population;

4) intra-corporate transfer - temporary transfer for a period determined by the employment contract, but not more than three years, with the right to extend for one year of a foreign national or a stateless person engaged in labor activities as a head, manager or specialist in a legal entity established in the country - a member of the World Trade Organization, located and operating outside the territory of the Republic of Kazakhstan, to branches, subsidiaries, representative offices of this legal entity established in the territory of the Republic of Kazakhstan in accordance with the legislation of the Republic of Kazakhstan;

5) seasonal foreign worker - a foreign national or a stateless person engaged by an employer to perform seasonal work, which, due to climatic or other natural conditions, is performed during a certain period (season), but no more than one year;

6) the authorized public employment body - the central executive body that exercises management and cross-sectoral coordination in the population employment in accordance with the legislation of the Republic of Kazakhstan;

7) a foreign worker - an immigrant engaged by an employer to carry out labor activities in the territory of the Republic of Kazakhstan;

8) foreign labor force – foreign nationals and stateless persons engaged by the employer to carry out labor activities in the territory of the Republic of Kazakhstan, including seasonal foreign workers;

9) quota for engagement of foreign labor force - the maximum allowable amount of foreign labor force to be engaged by the employer to carry out labor activities in the territory of the Republic of Kazakhstan;

10) country of origin - a country, whose citizen the foreigner engaged in labor activity in the Republic of Kazakhstan is in accordance with the legislation of the Republic of Kazakhstan.

Chapter 2. The procedure of establishing a quota for engagement of foreign labor force in the Republic of Kazakhstan and its distribution among the regions of the Republic of Kazakhstan

4. The quota for engagement of foreign labor force is set as a percentage of the labor force, which includes:

1) a quota for engagement of foreign labor under permits issued by the local executive body to the employer;

2) a quota by countries of origin for engagement of foreign labor force in the presence of international agreements on cooperation in labor migration and social protection of migrant workers ratified by the Republic of Kazakhstan;

3) a quota for engagement of labor immigrants.

5. The quota for engagement of foreign labor force for upcoming year (years) determines the maximum allowable amount of foreign labor force to be attracted by employers and to carry out labor activities on the territory of the corresponding administrative-territorial unit.

6. Every year, before October 1, employers shall file applications to local executive bodies of regions, cities of republican status, the capital (hereinafter referred to as local executive bodies), on the territory of which foreign workers are expected to work, for the need for foreign labor in accordance with the form in Appendix 1 to these Rules.

7. Before October 10, local executive bodies shall generalize applications for employers' need for foreign labor, taking into account:

1) the demand for labour in the region, including through the envisaged creation of jobs in the framework of the implementation of state programs, national projects and plans for the development of regions, cities of republican significance, the capital;

2) the forecasted number of unemployed persons and the expected layoffs, and also the number of graduates of educational organizations providing technical and vocational training, post-secondary, higher and postgraduate education in professions and occupations for which employers intend to involve foreign workers;

3) the possibility of meeting the need for labor through labor resources, including through the training, retraining or advanced training of unemployed persons, self-employed, released workers in professions and specialties for which it is planned to attract foreign workers;

4) assessment of the efficacy of using foreign labor in the previous year and the forecasted need for foreign labor for the upcoming year (s).

Footnote. Paragraph 7 as amended by the Decree of the Government of the Republic of Kazakhstan dated 28.04.2022 No. 256 (shall be enforced ten calendar days after the day of its first official publication).

8. No later than October 15, the local executive bodies shall file applications for employers' need in foreign labor to the Commission for the formation of a quota for engaging foreign labor (hereinafter referred to as the Commission), that are generalized with regard to the requirements of paragraph 7 of these Rules.

9. The commission shall be created by local executive bodies. The Commission shall include representatives of territorial internal affairs bodies, local executive bodies in the field of education, entrepreneurship, the local labour inspection authority, the regional chamber of entrepreneurs (as agreed), territorial associations of trade unions at the level of the region, the city of republican significance and the capital (as agreed).

The Commission, within three working days from the date of submission by the local executive body of applications for the needs of employers in the foreign labour force, makes recommendations on meeting the need for the requested foreign labour force for the coming (upcoming) year(s) or refusing to satisfy them. The recommendations of the Commission shall be taken separately concerning each application of employers, drawn up in a protocol and signed by the members of the Commission present at the meeting.

Footnote. Paragraph 9 - as amended by Decree of the Government of the Republic of Kazakhstan dated 28.04.2022 No. 256 (shall be enforced ten calendar days after the day of its first official publication).

10. Applications for the needs of employers in foreign labor are rejected by the Commission in whole or in part on the following grounds:

1) ability of meeting the need in labor through labor resources, including through the training, retraining or advanced training of unemployed citizens, self-employed, as well as released workers in professions and occupations for which it is planned to attract foreign workers;

2) presence of outstanding breaches of the procedure for issuing and (or) prolonging the involvement of foreign labor in the previous and current years by employers planning involvement of foreign workers;

3) presence of outstanding breaches of the labor legislation of the Republic of Kazakhstan by employers planning involvement of foreign workers, including wage arrears and other payments to employees in the previous and current years.

11. The local executive bodies, within five working days from the date of the decision by the Commission, shall notify the employers about the outcome of consideration of their application for the need in foreign labor.

12. To form a quota for engaging foreign labor force for the upcoming year (s), the local executive bodies, shall file applications to the authorized public employment body by November 1 for engaging foreign labor force in accordance with the form in Appendix 2 to these Rules, generalized with regard to the need of employers to engage foreign workers for the coming year (s).

13. If necessary, the interested central state bodies, before November 1, submit the formed proposals for engaging foreign labor for the upcoming year (s), with regard to the forecast of supply and demand in the labor market for the upcoming year (s), coordinated with the local executive body, on whose territory it is planned to carry out labor activities by foreign workers, with the relevant rationale to the authorized public employment body.

14. The quota for engaging labor immigrants shall be formed on the basis of applications for the need to attract labor immigrants to work for individuals to perform work (provide services) in the household for the upcoming year(s).

15. The need to attract labour immigrants to carry out labour activities for individuals to perform work (render services) in the household for the coming (upcoming) year(s) until October 10 shall be determined by local executive bodies, taking into account:

1) the demand for labour in the region, including through the envisaged creation of jobs;

2) the forecast of the number of unemployed persons and the expected layoff of workers;

3) assessing the effectiveness of attracting labour immigrants by local executive bodies in the previous year and the forecasted need for labour immigrants for the coming (upcoming) year(s).

Footnote. Paragraph 15 - as amended by Decree of the Government of the Republic of Kazakhstan dated 28.04.2022 No. 256 (shall be enforced ten calendar days after the day of its first official publication).

16. Excluded by Decree of the Government of the Republic of Kazakhstan dated 28.04.2022 No. 256 (shall be enforced ten calendar days after the day of its first official publication).

17. Local executive bodies shall form the need to attract labour immigrants for the coming (upcoming) year(s) and by November 1 send applications for the need to attract labour immigrants to the authorized body for employment in the form in accordance with Annex 4 to these Rules.

Footnote. Paragraph 17 - as amended by the Decree of the Government of the Republic of Kazakhstan dated 28.04.2022 No. 256 (shall be enforced ten calendar days after the day of its first official publication).

18. The quota by the countries of foreign labor force origin shall be established in the presence of international agreements on cooperation in labor migration and social protection of migrant workers, ratified by the Republic of Kazakhstan.

The quota by the countries of origin shall be formed by local executive bodies with regard to forecast of supply and demand in the labor market, made when concluding international cooperation agreements in labor migration and social protection of migrant workers, ratified by the Republic of Kazakhstan, and is provided to the authorized public employment body in accordance with the form of Appendix 5 to these Rules.

19. The authorized body for employment of the population, based on applications for the need for foreign labour and labour immigrants submitted by the local executive and interested central state bodies, shall form a quota for attracting foreign labour for the coming (upcoming) year(s).

Footnote. Paragraph 19 - as amended by the Decree of the Government of the Republic of Kazakhstan dated 28.04.2022 No. 256 (shall be enforced ten calendar days after the day of its first official publication).

20. The authorized body for employment of the population, before January 1, shall establish a quota for attracting foreign labour and distributes it among the regions, cities of republican significance, the capital of the Republic of Kazakhstan and, no later than three working days from the date of its distribution, places it on its official Internet site. resource, a decision taken in accordance with subparagraph 23) of Article 7 of the Law of the Republic of Kazakhstan "On Employment of the Population".

Footnote. Paragraph 20 - as amended by the Decree of the Government of the Republic of Kazakhstan dated 28.04.2022 No. 256 (shall be enforced ten calendar days after the day of its first official publication).

21. The distribution of the quota for attracting foreign labour between regions, cities of republican significance, and the capital of the Republic of Kazakhstan shall be carried out:

1) by countries of origin in accordance with the submitted applications of local executive bodies, formed based on the needs of employers, as well as proposals from interested central government bodies in the context of categories of foreign and seasonal workers;

2) to attract labour immigrants according to the need to attract labour immigrants, presented by local executive bodies.

Footnote. Paragraph 21 - as amended by Decree of the Government of the Republic of Kazakhstan dated 28.04.2022 No. 256 (shall be enforced ten calendar days after the day of its first official publication).

22. The authorized public employment body, basing on proposals from interested state or local executive bodies, shall distribute the approved quota among regions, cities of republican status, the capital within the established quota.

Appendix 1
to the Rules for establishing
a quota for attracting foreign labour
to the Republic of Kazakhstan and its
distribution between regions, cities
of republican significance, the capital
of the Republic of Kazakhstan

Footnote. Annex 1 - as amended by Decree of the Government of the Republic of Kazakhstan dated 28.04.2022 No. 256 (shall be enforced ten calendar days after the day of its first official publication).

(name of the authorized authority of the region,
city of republican significance, the capital city)

from _____
 (full name legal entity or full name individual, legal address)
 Form

The requirement to attract foreign labour to the Republic of Kazakhstan for 20__

No.	Number of attracted foreign labour force in the current year (units)	The need for foreign labour for 20__ year				
		1st category (in the context of professions and specialities)	2nd category (in the context of professions and specialities)	3rd category (in the context of professions and specialities)	4th category (in the context of professions and specialities)	Seasonal foreign workers
1	2	3	4	5	6	7

Justification for attracting foreign workers, indicating the planned implementation of projects within the framework of concluded agreements, contracts of the employer for the performance of work, provision of services, production of goods

		<i>Stamp place (except for private entrepreneurship entities, if, in accordance with the legislation of the Republic of Kazakhstan, it must have a stamp)</i>
(position of the head of the organization that is the employer)		

Appendix 2
 to the Rules for establishing a
 quota for engagement of foreign
 labor force and its distribution
 among the regions of the
 Republic of Kazakhstan

Footnote. The upper right corner of Annex 2 - as amended by Decree of the Government of the Republic of Kazakhstan dated 28.04.2022 No. 256 (shall be enforced ten calendar days after the day of its first official publication).

to the Ministry of Labor and
 Social Protection of the Population
 of the Republic of Kazakhstan
 from _____

full name of the local executive body)

The form

Application for engagement of foreign labor force in the Republic of Kazakhstan for 20__

No.	Organization (full name, legal address)	Amount of foreign labor force engaged in the current year (units)	The need in foreign labor by categories of foreign workers for 20__ yr					Seasonal foreign labor force	Rationale for the need with regard to demands provided for in paragraph 7 of the Rules
			1st category (by professions and occupations)	2nd category (by professions and occupations)	3rd category (by professions and occupations)	4th category (by professions and occupations)			
1	2	3	4	5	6	7	8	9	

Appendix 3
to the Rules for establishing a quota for engagement of foreign labor force and its distribution among the regions of the Republic of Kazakhstan

Footnote. Appendix 3 excluded by Decree of the Government of the Republic of Kazakhstan dated 28.04.2022 No. 256 (shall be enforced ten calendar days after the day of its first official publication).

Appendix 4
to the Rules for establishing a quota for attracting foreign labour to the Republic of Kazakhstan and its distribution between regions, cities of republican significance, the capital of the Republic of Kazakhstan

Footnote. Annex 4 - as amended by Decree of the Government of the Republic of Kazakhstan dated 28.04.2022 No. 256 (shall be enforced ten calendar days after the day of its first official publication).

from _____
(full name of the local executive body)

Form

Application for the requirement to attract labour immigrants for the year 20__

Number of attracted labour immigrants in the current year (units)	The need to attract labour immigrants for 20__	Justification for the requirement
1	2	3

Appendix 5

to the Rules for establishing a quota for attracting foreign labour to the Republic of Kazakhstan and its distribution between regions, cities of republican significance, the capital of the Republic of Kazakhstan

Footnote. The upper right corner of Annex 5 - as amended by Decree of the Government of the Republic of Kazakhstan dated 04.28.2022 No. 256 (shall be enforced ten calendar days after the day of its first official publication).

from _____

_____ full name of the local executive body)

The form

Application for engagement of foreign labor force in the Republic of Kazakhstan by countries of origin for 20__ yr

№ п/п	Amount of engaged foreign labor force	By categories of foreign workers for 20__ yr				
		1st category (by professions and occupations)	2nd category (by professions and occupations)	3rd category (by professions and occupations)	4th category (by professions and occupations)	Seasonal foreign labor force
1	2	3	4	5	6	7

Annex 1
to the Resolution of the Government of the Republic of Kazakhstan dated December 15, 2016 No. 802

The list of sectors of the economy within which intra corporate translation is carried out

Footnote. Annex 1 is excluded by the resolution of the Government of the Republic of Kazakhstan dated 11.08.2018 No. 501 (shall be enforced upon the expiry of ten calendar days after the day of its first official publication).

Annex 2
to the Resolution of the Government of the Republic of Kazakhstan No. 802, dated December 15, 2016

The list of persons whose employment does not require permits from local executive bodies for the engagement of foreign labor force

Footnote. The list with amendments issued by the Resolution of the Government of the Republic of Kazakhstan dated 13.04.2018 No. 189 (shall be enforced upon the expiry of ten calendar days after the date of its first official publication); dated

29.03.2021 No.169 (effective ten calendar days after the date of its first official publication); dated 08.09.2022 No. 666 (effective after ten calendar days after the date of its first official publication).

Foreigners and apatrides:

1. Kandases;
2. Business immigrants arrived for business activities;
3. Obtained refugee or asylum-seeker status;
4. Are immigrants arriving on humanitarian reasons, in accordance with the Law of the Republic of Kazakhstan dated July 22, 2011 "On Migration of population";
5. Condemned by resolution of the courts of the Republic of Kazakhstan to imprisonment, conditionally, to punishments not related to isolation from society;
6. Those who are victims of human trafficking for the duration of the proceedings in a particular criminal case related to human trafficking in persons, prior to the entry into force of a court sentence;
7. Those persons entering into the Republic of Kazakhstan for the purpose of family reunification, having reached the legal age, being the spouse of a citizen of the Republic of Kazakhstan and having been married for at least three years, recognized by the legislation of the Republic of Kazakhstan;
8. Students in full-time education and at the same time working in educational institutions of the Republic of Kazakhstan in their free time from study in accordance with the labor legislation of the Republic of Kazakhstan;
9. Are citizens of the states parties to the Treaty on the Eurasian Economic Union dated May 29, 2014;
10. Members of crews of sea and river vessels, air and rail transport;
11. Working as artists, stage managers, conductors, choir masters, choreographers, athletes and coaches;
12. Attracted by participants and bodies of the international financial center "Astana";
13. Those who are specialists in the creation of a space rocket complex and the operation of ground-based space infrastructure facilities, attracted under the international treaties of the Republic of Kazakhstan on cooperation in the field of aerospace activities;
14. Carrying out pedagogical activity in accordance with international treaties of the Republic of Kazakhstan on cooperation in the field of education in organizations of secondary, technical and vocational, post-secondary and higher education of the Republic of Kazakhstan, but constituting not more than 25 percent, and for implementing international integrated educational training programs-no more 50 percent of the organization's staff;

15. Among the faculty members of higher educational institutions, which have been given special status in accordance with the procedure established by the legislation of the Republic of Kazakhstan, as well as those working in higher education institutions as chiefs and teachers with higher education with confirmed documents in the manner established by the legislation of the Republic of Kazakhstan providing training for industries.

16. Those who work as the first chiefs of branches or representative offices of foreign legal entities, as well as the first chiefs of Kazakhstan legal entities and their deputies with an absolute share of foreign participation in their authorized capital.

17. Those who are on business trip for business purposes, the term of which does not exceed a total of one hundred and twenty calendar days within one breaking-in period.

18. Working as the first chiefs of organizations that have concluded contracts with the Government of the Republic of Kazakhstan for the amount of investments in cash equivalent of over \$ 50 million, and the first chiefs of legal entities of the Republic of Kazakhstan who carry out investment activities in priority kinds of activities and who have contracted with the authorized investment body.

19. Working in the national managing holding at the positions not lower than the chiefs of structural divisions with higher education with confirmed documents in the manner established by the legislation of the Republic of Kazakhstan.

20. Attracted to work as members of the board of directors of the national managing holding.

21. Those who have received an investor visa, with the exception of family members, as well as dependent persons.

Annex 3
to the Resolution of the
Government of the
Republic of Kazakhstan
No. 802 dated December 15, 2016

List of declared to be no longer in force of some decisions of the Government of the Republic of Kazakhstan

1. Subparagraph 1) of paragraph 1 of the Decree of the Government of the Republic of Kazakhstan No. 45, dated January 13 2012, "On approval of the Rules for setting quotas for engagement of foreign labor force in the Republic of Kazakhstan, Rules and conditions for issuing permits to foreign workers for employment, as well as employers for engagement of foreign labour force and foreign workers transferred as part of the intra corporate translation, and on amendments to the Decree of the

Government of the Republic of Kazakhstan No. 836, dated June 19, 2001 "On Measures to Implement the Law of the Republic of Kazakhstan dated January 23, 2001 "On Employment" (CAPG of the Republic of Kazakhstan, 2012, No. 23, Art. 323).

2. Paragraph 3 of the Resolution of the Government of the Republic of Kazakhstan No. 386, dated April 22, 2013 "On the setting quotas for engagement of foreign labor force on priority projects for 2013, approving the conditions for issuing permits for engagement of foreign labor force on priority projects and introducing changes to the resolution of the Government of the Republic Kazakhstan No. 45, dated January 13, 2012 "On Approval of the Rules for setting quotas for Attracting Foreign Labor to the Republic of Kazakhstan, Rules and Conditions for Issuing Permits to foreign employees on employment, as well as employers to attract foreign labor and foreign workers transferred as part of an internal corporate transfer, and about amendments into the Decree of the Government of the Republic of Kazakhstan No. 836, dated June 19, 2001 "On Measures to Implement the Law of the Republic of Kazakhstan of January 23, 2001 of the year "On Employment" (CAPG of the Republic of Kazakhstan, 2013, No. 27, Art. 420).

3. Subparagraph 1) of paragraph 1 of the Decree of the Government of the Republic of Kazakhstan of October 8, 2014 No. 1065 "On Amendments and Addenda to the Decree of the Government of the Republic of Kazakhstan No. 45, dated January 13, 2012" On Approval of the Rules for setting quotas for engagement of foreign labor force to the Republic of Kazakhstan Of the Rules and conditions for issuing permits to a foreign employee for employment, as well as employers for the engagement of foreign labor force and foreign workers transferred within the framework of an internal corporate transfer, and about Changes to the Decree of the Government of the Republic of Kazakhstan No. 836, dated June 19, 2001 "On measures to implement the Law of the Republic of Kazakhstan dated January 23, 2001" On Employment "(CAPG of the Republic of Kazakhstan, 2014, № 61, Art. 571).

4. Sub-paragraph 1) of paragraph 1 of the Decree of the Government of the Republic of Kazakhstan No. 173, dated March 31, 2016 "On Amendments and Addenda to Decisions of the Government of the Republic of Kazakhstan No. 45, dated January 13, 2012 "On Approval of the Rules for setting quotas for engagement of foreign Labor to the Republic of Kazakhstan Of the Rules and conditions for issuing permits to a foreign worker for employment, as well as employers for the engagement of foreign labor force and foreign workers transferred within the framework of an internal corporate transfer, and about and amendments to the Resolution of the Government of the Republic of Kazakhstan No. 836, dated June 19, 2001 "On Measures for Implementing the Law of the Republic of Kazakhstan of January 23,

2001 On Employment of the Population" and No. 673, dated July 2, 2013 "On Approval of the Rules for Privatization of habitations from the State Housing Fund" (CAPG of the Republic of Kazakhstan, 2016, No. 20, p. 110).

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