

NEW AMENDMENTS TO THE LABOR CODE AND SOME LEGISLATIVE ACTS REGARDING THE REGULATION OF PERSONNEL PROVISION ISSUES

In December, the Senate of the Parliament of Kazakhstan approved amendments and additions to the Labor Code on the regulation of personnel provision. Below we discuss the key changes.

The legislator introduced a number of the following and new concepts in relation to the direction of personnel in the conceptual framework of the Labor Code:

- **provision of personnel** - the direction of the employee by the sending party to perform his labor function in the interests, under the management and control of the receiving party under the contract for the provision of services for the provision of personnel;
- **employees of the sending party** - employees hired on the basis of an employment contract concluded with the sending party in accordance with the contract for the provision of personnel services;
- **receiving party** - an individual or legal entity, an individual entrepreneur, including a peasant or farm enterprise, attracting employees of the sending party for work in accordance with the contract for the provision of services for the provision of personnel;
- **acts of the receiving party** - orders, disposal, instructions, rules, regulations, shift schedules, watch schedules issued by the receiving party in accordance with the contract for the provision of services for the provision of personnel;
- **provision of personnel** - the direction of an employee under a contract for the provision of services for the provision of personnel by the sending party to the receiving party to perform his labor function in the interests, under the management and control of the receiving party.

In addition, the above concepts will help to distinguish the legal status of the employee from the employees of the provided personnel.



In our opinion, the legislator considered it important to ensure the protection of the rights of employees assigned under a contract to provide services for the provision of personnel, and therefore the following requirements were amended:

- it is prohibited to discriminate in the field of remuneration against employees of the sending party;
- additional paid annual leave is provided for employees of the sending party who are engaged in heavy work, work with harmful or dangerous working conditions;
- the procedure for establishing increased official salaries or additional payments to employees of the sending party, whose work is carried out in hard work, work with harmful and dangerous working conditions, has been determined;
- reduced working hours for employees of the sending party, whose work is carried out in heavy work, work with harmful and dangerous working conditions.

In addition, now employees of the provided personnel have the right to refuse to perform work if a situation arises that poses a threat to their health or life, with notification of this to their immediate supervisor or representative of the employer (a representative of the receiving party in the event that personnel are provided by the sending party).

At the same time, the sending party is prohibited from concluding contracts with the receiving party for the provision of services for the provision of personnel in case of failure to provide the results of certification of production facilities for working conditions.

The obligation of the employer to suspend the workers of the directing party from work in case of their appearance in a state of alcoholic, drug, or toxic intoxication has been introduced.

Along with this, the obligation of employees of the party to undergo preventive medical examinations in accordance with the acts of the receiving party is provided.

Amendments have been made to the closed list of grounds for sending employees of the sending party to the receiving party in the following cases:

- to perform work in the household for individuals;
- for the duration of a certain job;
- for the period of replacement of a temporarily absent employee;
- for the duration of seasonal work.

In turn, the Chapter 33 of the Civil Code was supplemented by Article 687-1, according to which, under the contract for the provision of personnel services, one party (sending party) sends its employee to perform work in the interests, under the management and control of the other party (receiving party).

Also, changes were made to the Entrepreneurial Code and a number of other laws.

The changes took effect on December 31, 2020.



If you have any questions regarding the above issues, please contact. We will be glad to help you.



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