

## **LATEST AMENDMENTS** **REMOTE WORK REGULATION**

Law No. 61-VII  
Date: 1 July 2021

### **IMPORTANT!**

In the face of the global pandemic many companies in Kazakhstan transferred their employees to remote work, involving online technologies to the maximum extent possible. However, they encountered different issues of proper regulation of remote work, execution and organization of business processes. To fill in the existing gaps, Kazakhstan accordingly amended its Labor [Code](#).

Please see below the amendments, which we deem most important for business activities.

### **■ Conceptual Framework Amendment**

- *remote work* means the "implementation of the labor process outside the location of an employer, host party and their facilities, applying the information and communication technologies in the course of labor activities";
- *combined remote work* means the "implementation of the labor process by way of rotation of the periods of performing labor duties both at the place of location of an employer, host party and their facilities, and in the form of remote work";
- *notice* means "an application of an employee or an employer in writing (on paper or in the form of an electronic document certified by an electronic digital signature) delivered by hand or by a courier postal service, postal service, facsimile communications, email and other information and communication technologies, or in the electronic form ensuring authorization and identification of the employee or the employer".

### **■ Changes in the Procedure for Electing the Elective Representatives**

The elective representatives of employees are elected and authorized at a general meeting (conference) of the organization's employees by the majority of votes, provided that at least 2/3 of the total number of the organization's employees attend the meeting (conference). A general meeting (conference) of the organization's employees on election of the elective representatives of employees may be conducted by way of remote voting. Participation at the general meeting (conference) of an employee is confirmed by an electronic digital signature or any other electronic method ensuring employee authorization and identification.

### **■ Clarification of the Procedure for Making Employees Familiar with the Employer's Acts**

An employer must make an employee familiar with a collective bargaining agreement,

internal labor regulations and other employer's acts directly pertaining to the work (labor function) of the employee, as well as in cases stipulated by the Labor Code and other employer's acts, personally or by sending them by a courier postal service, postal service, facsimile communications, email and other information and communication technologies.

### ■ **Changes in the Employer's Actions Preceding the Application of a Disciplinary Sanction**

Before applying a disciplinary sanction an employer must request an employee to submit explanations in writing (on paper or in the form of an electronic document certified by an electronic digital signature) or in the electronic form ensuring the employee authorization and identification.

The request to submit explanations concerning the fact of the committed disciplinary offense must be executed in writing (on paper or in the form of an electronic document certified by an electronic digital signature) and served personally to an employee or by way of the courier postal service, postal service, facsimile communications, email and other information and communication technologies with confirmation of the receipt of the employer's request.

In case of the employee's avoidance or refusal to accept the request, the employer's representative prepares a relevant act.

If the employee fails to submit explanations upon expiration of two business days of the date of receiving the request or preparing the act of avoidance or refusal to accept the request, the employer's representative prepares a relevant act.

### ■ **Miscellaneous**

- Remote work may be established both when entering into an employment contract and throughout the effective period of an employment contract, accompanied by the introduction of relevant amendments into the employment contract.
- In case of remote work, no workplace is specified, except for the combined remote work.
- Flexible work time regime may be established for the employees, including those working under the remote work regime, in order to allow for the combination of their social-and-domestic and other personal needs with the production interests.
- In case of remote work, an employee is sent on a business trip from the place of actual performance of labor duties, unless otherwise stipulated by an employment contract, collective bargaining agreement or an employer's act.
- During the period of introducing the state of emergency or the martial law or in case of introducing any other restrictive measures, including the quarantine, upon a resolution of governmental authorities or their officials, as well as in other exceptional cases threatening to life or health of employees, an employer may temporarily establish remote work or combined remote work by an employer's act (specifying the reasons) until elimination of the above circumstances. In this case, provision of the employees with the equipment, computer systems under the Kazakhstan legislation on informatization, communication services and other means required for the performance of labor duties, as well as reimbursement of the employees' expenses, is determined by an employer's act.

- Employees working under the remote work regime are established fixed work time accounting with observation of the daily limits on the working hours, with the control specifics to be determined in an employment contract or an employer's act.

During the working hours an employee must remain available for communications with the employer and/or the host party. In this case, the employer and/or the host party may not demand that the employee stays available during off hours, save for exceptional cases stipulated by the Labor Code.

- In case of necessity to perform remote work beyond the established duration of the working hours, an employee may be involved in work only subject to his/her written consent with an increased payment in accordance with the procedure stipulated by the Labor Code.
- In case of remote work, salary is paid in full, provided that an employee performs the scope of work determined by an employment contract and an employer's act, depending on the employee's qualification, complexity and quality of the work performed.

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

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