

**Labour Code of the Republic of Kazakhstan
Code of the Republic of Kazakhstan of 15 May 2007 No. 251
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CONTENTS

GENERAL PART

SECTION 1. GENERAL PROVISIONS

Chapter 1. KEY PROVISIONS

Article 1. Key concepts used in this Code

1. In this Code, the following key concepts are used:

- 1) civil service – the professional activities of civil servants in exercising their official powers for the purpose of fulfilling tasks and functions of state-owned enterprises and state institutions and maintaining and providing for the functioning of state authorities;
- 2) civil servant – a person holding, in the manner established by the legislation of the Republic of Kazakhstan, a paid, state position in state-owned enterprises and state institutions and exercising official powers for the purpose of fulfilling tasks and functions of state-owned enterprises and state institutions and maintaining and providing for the functioning of state authorities;
- 3) minimum monthly wage – the guaranteed minimum payment to an employee performing simple, unqualified work (the least complex), on fulfilment thereby the work-time standard (official duties) under normal conditions and normal working hours, as established by this Code, per month;
- 4) special clothing – clothing, footwear, headgear, work gloves, and other items intended for protection of the employee against harmful and (or) hazardous production factors;
- 5) heavy work – types of activity performed by an employee associated with lifting or moving heavy items manually, or other physical work involving an energy expenditure of more than 250 Kcal/hour;
- 6) shift work – work performed on two, three or four shifts a day;
- 7) social partnership – a system of interrelations between employees (employees' representatives), employers (employers' representatives) and state authorities designed to ensure co-ordination of their interests on issues of regulation of labour relations and other relations directly connected with them;

- 8) general, branch (tariff), regional agreement (hereinafter referred to as the agreement) – a legal act concluded between the parties of the social partnership, determining the content and obligations of the parties with respect to establishment of the working conditions, employment and social guarantees for employees at the republican, branch and regional levels;
- 9) idle time – temporary suspension of work for reasons of an economic, technological, organisational or other production or natural nature;
- 10) qualification category (rank) – the level of the requirements on the qualifications of the employee, reflecting the complexity of the work performed;
- 11) mediation commission – a body set up by agreement between the employer and the employees (their representatives) for regulation of a collective labour dispute by means of reconciliation of the parties;
- 12) mediation procedures – successive consideration of a collective labour dispute initially by the mediation commission, and in the event of agreement therein not being achieved, by a labour tribunal;
- 13) mediator – an individual or legal entity engaged by the parties to the labour relations to provide labour dispute resolution services;
- 14) vacation – release of the employee from work for a certain period for provision of annual continuous rest of the employee or for social purposes, with retention of his place of work (position) and, in cases established by this Code, the average wage;
- 15) labour – a person’s activities geared to creating material, spiritual and other values necessary for life and satisfaction of personal and social requirements;
- 16) labour compensation – system of relations connected with the employer providing payment of compensation to the employee for his labour in accordance with this Code and other regulatory and legal acts of the Republic of Kazakhstan, as well as agreements, labour, collective bargaining agreements and acts of the employer;
- 17) minimum standard of labour compensation (MSLC) – guaranteed minimum monthly wage of an employee engaged in performing heavy work, work under harmful (particularly harmful), hazardous working conditions, including in a minimum basket of foodstuffs, goods and services, necessary for restoring the vital forces and energy of an employee that is subjected, during his work, to the impact of harmful and (or) hazardous production factors;

- 18) employee health – a complex of sanitary and epidemiological measures and means for maintaining the health of employees, prevention of adverse impact of the production environment and the labour process;
- 19) labour dispute – disagreements between the employee (employees) and the employer (employers) on issues of application of the labour legislation of the Republic of Kazakhstan, fulfilment or amendment of the terms and conditions agreements, labour and (or) collective bargaining agreements, and acts of the employer;
- 20) labour mediation – assistance to the population in job placement, rendered by an authorised body on employment issues, as well as by a private employment agency;
- 21) working conditions – conditions of payment, worktime standard setting, working and rest time regime, procedure for combining professions (jobs), expansion of the servicing zone, fulfilment of the duties of a temporarily absent employee, labour protection and safety, technical, production and living conditions, as well as other working conditions on agreement between the parties;
- 22) state labour authority – state body of the Republic of Kazakhstan implementing state policy in the sphere of labour relations in accordance with the legislation of the Republic of Kazakhstan;
- 23) territorial subdivisions of the state labour authority – structural subdivisions of the state labour authority, exercising, within the bounds of the corresponding administrative-territorial unit, powers in the sphere of labour relations in accordance with the legislation of the Republic of Kazakhstan;
- 24) labour relations – relations between the employee and the employer, arising for exercise of the rights and obligations envisaged by the labour legislation of the Republic of Kazakhstan, labour contracts and collective bargaining agreements;
- 25) relations, directly connected with labour relations – relations encompassing organisation and management of labour, job placement, occupational training, further training and raising the qualifications of employees, social partnership, conclusion of collective bargaining agreements and agreements, participation by employees (employees representatives) in establishment of the working conditions in cases envisaged by this Code, resolution of labour disputes and control over observance of the labour legislation of the Republic of Kazakhstan;
- 26) labour protection – protection of employees, including a complex of measures excluding impact by harmful and (or) hazardous production factors on the employees in the process of their labour activities;

- 27) labour protection conditions – compliance by the labour process and production environment with the requirements of labour protection and safety during fulfilment by the employee of his job duties;
- 28) monitoring of labour protection and safety – a system of observations of the state of labour protection and labour safety at the production facility, as well as assessment and forecasting of the state of labour protection and labour safety;
- 29) standards in the sphere of labour protection and labour safety – ergonomic, sanitary and epidemiological, psycho-physiological and other requirements ensuring normal working conditions;
- 30) job duties – obligations of the employee and of the employer, deriving from the regulatory and legal acts of the Republic of Kazakhstan, an act of the employer, employment contracts and collective bargaining agreements;
- 31) service record – calendar time spent by the employee in performing his job duties;
- 32) labour discipline – proper fulfilment by the employer and employees of their obligations established by regulatory and legal acts of the Republic of Kazakhstan, as well as agreements, employment contracts, collective bargaining agreements, acts of the employer, and constituent documents;
- 33) labour regulations – procedure for regulation of relations between employees and the employer encompassing labour organisation;
- 34) labour tribunal – temporary body, set up by the parties to a collective labour dispute, involving persons authorised to resolve labour disputes, in the event that the mediation commission cannot reach an agreement;
- 35) labour safety – a system for protecting the life and health of employees in the process of their labour activities, including legal, socio-economic, organisational-technical, sanitary and epidemiological, therapeutic and preventive, rehabilitation and other measures and means;
- 36) public labour safety inspector – representative of employees, exercising public control in the sphere of labour protection and labour safety;
- 37) worktime standard setting – determination of the required expenditure of labour (time) for performance of a job (production of a unit of output) by employees under specific organisational-technical conditions and establishment of worktime standards on this basis;

- 38) safe working conditions – working conditions, created by the employer, under which there is no impact exerted on the employee by harmful and (or) hazardous production factors or the level of their impact does not exceed safety standards;
- 39) employment contract – written agreement between the employee and the employer, in accordance with which the employee undertakes personally to perform specific work (labour function), to observe labour regulations, while the employer undertakes to provide the employee with work involving the agreed labour function, to ensure the working conditions envisaged by this Code, the laws and other regulatory and legal acts of the Republic of Kazakhstan, the collective bargaining agreement, acts of the employer, and to pay the employee wages in a timely manner and in full;
- 40) strike – full or partial halt to work by employees for the purpose of satisfying their socio-economic and professional claims in a collective labour dispute with the employer;
- 41) wage – remuneration for labour depending on the qualifications of the employee, the complexity, amount, quality and conditions of the work performed, as well as payments of a compensatory and incentive nature;
- 42) means of personal protection – means intended for protection of the employee against the impact of harmful and (or) hazardous production factors, including special clothing;
- 43) the employer – individual or legal entity with which the employee maintains labour relations;
- 44) employers’ representatives – individuals and (or) legal entities empowered on the basis of constituent documents or power of attorney to represent the interests of the employer or a group of employers;
- 45) acts of the employer – orders, directives, instructions, provisions and labour regulations issued by the employer;
- 46) job placement – complex of organisational, economic and legal measures designed to facilitate provision of employment to the population;
- 47) work place – the place where the employee permanently or temporarily fulfils his job duties in the process of labour activities;
- 48) job evaluation – classification of work performed as being of a specific complexity in accordance with the Unified Rate and Qualification Handbook of jobs and professions of employees and the Qualification Handbook of positions of heads, specialists and other officials, rate and qualification

characteristics of employees' professions and standard qualification characteristics of positions of heads, specialists and other officials of organisations;

49) working time – the time during which the employee, in accordance with acts of the employer and the terms and conditions of the employment contract fulfils his job duties, as well as other periods of time that, in accordance with this Code, are included in working time;

50) recording of cumulative hours worked – recording of cumulative hours worked over a reporting period established by the employer, which shall not exceed one year;

51) harmful (particularly harmful) working conditions – working conditions under which the impact of certain production factors entails a reduction in the working capacity or illness of the employee or an adverse effect on the health of his descendants;

52) harmful production factor – a production factor, the impact of which on the employee might entail illness or reduction in working capacity and (or) an adverse influence on the health of descendants;

53) occupational disease – chronic or acute disease caused by the impact on the employee of harmful production factors in connection with performance by the employee of his job (official) duties;

54) guarantees – means, methods and conditions warranting exercise of the rights granted to employees in the sphere of socio-labour relations;

55) safety standards – qualitative and quantitative indicators characterising the production conditions, the production and labour process from the point of view of ensuring organisational, technical, sanitary-hygiene, biological and other standards, rules, procedures and criteria orientated on maintaining the life and health of employees in the process of their labour activities;

56) hazardous working conditions – working conditions under which the impact of certain production or irremovable natural factors leads, in the event of failure to observe the labour safety rules, to injury, occupational disease, sudden deterioration of health or poisoning of the employee, resulting in temporary or permanent disability, occupational disease or death;

57) hazardous production factor – a production factor, the impact of which on the employee might result in temporary or permanent disability (industrial injury or occupational disease) or death;

58) multi-jobbing – performance by the employee of other regular paid work on the conditions of an employment contract in his free time;

- 59) employee – an individual maintaining labour relations with the employer and directly performing work under an employment contract;
- 60) employees’ representatives – trades union bodies, trades union associations and (or) other individuals and (or) legal entities authorised by the employees;
- 61) official holidays – national and state holidays of the Republic of Kazakhstan;
- 62) basic wage – relatively constant part of the wage, including payment according to tariff rates, official salary, piece rates, and payments of a constant nature, envisaged by the labour legislation, under branch agreements, collective bargaining agreements and (or) employment contracts;
- 63) industrial accident – impact on the employee of a harmful and (or) hazardous production factor during performance thereby his job (official) duties or tasks of the employer, resulting in industrial injury, a sudden deterioration in the health or poisoning of the employee, entailing his temporary or permanent disability, occupational disease or death;
- 64) manufacturing equipment – machinery, mechanisms, devices, apparatus, instruments and other technical means necessary for work or production purposes;
- 65) industrial injury – harm to the health of the employee, incurred during performance thereby his job duties and entailing disability;
- 66) production necessity – performance of work for the purpose of preventing or eliminating a natural disaster, accident or immediately eliminating their consequences, for preventing accidents, idle time, destruction or spoilage of property and in other exceptional cases, as well as for substituting for an absent employee;
- 67) certification of production facilities in terms of working conditions – activities to assess production facilities, workshops, sectors, work places for the purpose of determining the safety, harmfulness, and stress of the work performed at them, labour hygiene and compliance by the conditions of the production environment with standards in the sphere of labour protection and labour safety;
- 68) production sanitation – system of sanitary-hygiene and organisational measures and technical means preventing and reducing the impact of harmful production factors on employees;
- 69) compensation payments – monetary payments connected with special work regimes and working conditions and loss of work, reimbursement to employees of costs incurred in connection with fulfilment of their jobs and other duties envisaged by the laws of the Republic of Kazakhstan;

- 70) rate system – a variety of labour compensation system under which employees’ wages are determined differentially on the basis of base rates (salaries) and wage scales;
- 71) wage scale – the aggregate of rate ranks and rate coefficients envisaging differentiation with respect to the complexity of the work performed and the qualifications of the employees;
- 72) rate rank – the level of the complexity of the work and indicator of the skill level necessary for fulfilment of the given work;
- 73) base rate (salary) – fixed labour compensation of the employee for achieving the work (job) standards determined by the complexity (qualifications) per time unit;
- 74) disciplinary sanction – disciplinary measure applied to the employee by the employer when the former commits a disciplinary offence;
- 75) disciplinary offence – violation by the employee of labour discipline, as well as unlawful culpable failure to perform or duly perform job duties;
- 76) rest time – time during which the employee is free from fulfilling his job duties and which may be used at the employee’s own discretion;
- 77) means of collective protection – technical means intended for simultaneous protection of two or more employees against the impact of harmful and (or) hazardous production factors;
- 78) collective bargaining agreement – a legal document in the form of a written agreement between a team of employees and the employer, regulating socio-labour relations in the organisation;
- 79) overtime work – work carried out by the employee on the employer’s initiative outside the set working hours;
- 80) notification – written application from the employee or the employer or applications submitted in another manner (by courier, post, fax or e-mail);
- 81) business trip – a trip undertaken by an employee, on the instructions of the employer, to fulfil his job duties for a certain period of time outside his usual place of work, as well as when the employee is sent to another place for study, raising of qualification or retraining.
2. Other special concepts and terms of the labour legislation of the Republic of Kazakhstan are used in the meanings defined in the corresponding articles of this Code.

Article 2. Labour legislation of the Republic of Kazakhstan

1. The labour legislation of the Republic of Kazakhstan is based on the Constitution of the Republic of Kazakhstan and consists of this Code, laws of the Republic of Kazakhstan and other regulatory and legal acts of the Republic of Kazakhstan.
2. It is prohibited to include in other laws of the Republic of Kazakhstan standards regulating labour relations, social partnership and labour safety relations, apart from cases envisaged by this Code.
3. If an international treaty ratified by the Republic of Kazakhstan establishes other rules that those contained in this Code, the rules of the international treaty shall be applied.

International treaties ratified by the Republic of Kazakhstan are applied directly to labour relations, apart from cases when it follows from the international treaty that its application requires passing of a law.

Article 3. Objective and tasks of the labour legislation of the Republic of Kazakhstan

1. The objective of the labour legislation of the Republic of Kazakhstan consists in legal regulation of labour relations and other relations directly connected with labour and geared to protecting the rights and interests of the parties to the labour relations and establishing minimal guarantees of the rights and freedoms in the sphere of labour.
2. The tasks of the labour legislation of the Republic of Kazakhstan consist in creating the requisite legal conditions for achieving a balance of the interests of the parties to the labour relations, economic growth, higher production efficiency and human welfare.

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

The principles of the labour legislation of the Republic of Kazakhstan are as follows:

- 1) inadmissibility of restrictions on human and civil rights in the sphere of labour;
- 2) freedom of labour;
- 3) prohibition of discrimination, forced labour and the worst forms of child labour;
- 4) guaranteed right to working conditions meeting the safety and hygiene requirements;
- 5) priority of the life and health of the employee over the results of production activities;

- 6) guaranteed right to a fair remuneration for labour not below the minimum wage;
- 7) guaranteed right to rest;
- 8) equality of the rights and opportunities of employees;
- 9) guaranteed right of association of employees and of employers for the purpose of protecting their rights and interests;
- 10) social partnership;
- 11) state regulation of labour protection and labour safety;
- 12) guaranteed right of employees' representatives to exercise public control over observance of the labour legislation of the Republic of Kazakhstan.

Article 5. Inadmissibility of restriction of rights in the sphere of labour

No-one's rights may be restricted in the sphere of labour, apart from cases and in a manner envisaged by this Code and other laws of the Republic of Kazakhstan.

Article 6. Freedom of labour

Everyone shall have the right freely to choose labour or agree to work without any discrimination or compulsion to do so, the right to apply labour abilities, choose a profession and type of activity.

Article 7. Prohibition of discrimination in the sphere of labour

1. Everyone shall have equal opportunities to exercise their rights and freedoms in the sphere of labour.
2. No-one may be subjected to any discrimination in exercising their labour rights depending on sex, age, physical disabilities, race, nationality, language, material, social or official position, place of residence, attitude to religion, political convictions, tribe or social stratum or membership of public associations.
3. Discrimination shall not include differences, exceptions, preferences and restrictions determined by requirements inherent in the nature of the work or dictated by the state's concern for people in need of increased social and legal protection.

4. Persons who believe they have been subject to discrimination in the sphere of labour shall have the right to enter a lawsuit in a court or other instance in the manner established by the laws of the Republic of Kazakhstan.

Article 8. Prohibition of forced labour

Forced labour is prohibited.

Forced labour shall mean any work or services required from any person under threat of any punishment, for fulfilment of which this person has not offered its services voluntarily, with the exception of work:

required by virtue of the laws of the Republic of Kazakhstan on mandatory military service;

constituting part of the civil duties of citizens, as established by laws of the Republic of Kazakhstan;

required from someone by virtue of a court sentence that has come into legal effect, on the condition that the work will be performed under the supervision and control of state authorities and that the person performing it is not yielded or handed over to any individuals and (or) legal entities;

required under the conditions of an emergency or martial law;

performed for the direct benefit of a team by the members of the given team and may, therefore, be considered to be ordinary civil obligations of the members of the team on the condition that they or their representatives have the right to express their opinion concerning the advisability of this work.

Article 9. Effectiveness of this Code

1. This Code regulates the following relations:

- 1) labour;
- 2) directly connected with labour;
- 3) social partnership;
- 4) labour protection and labour safety.

2. The effectiveness of this Code, unless otherwise envisaged by laws and international agreements ratified by the Republic of Kazakhstan, shall apply to:

- 1) employees, including employees of organisations located on the territory of the Republic of Kazakhstan, owners of property, participants or shareholders that are foreign individuals or legal entities;
- 2) employers, including organisations located on the territory of the Republic of Kazakhstan, owners of property, participants or shareholders that are foreign individuals or legal entities.
3. The specifics of the legal regulation of the labour of individual categories of employee are established by this Code and other laws of the Republic of Kazakhstan.
4. Laws of the Republic of Kazakhstan shall not reduce the level of the rights, freedoms and guarantees established by this Code.

Article 10. Employment contracts, agreement between parties to a social partnership, collective bargaining agreements, acts of the employer in the sphere of labour

1. Labour relations, as well as other relations directly connected with labour, shall be regulated by the employment contract, act of the employer, agreement and collective bargaining agreement.
2. The provisions of agreements between the parties to a social partnership, collective bargaining agreements, employment contracts and acts of employers that are detrimental to the employees' status compared with the labour legislation of the Republic of Kazakhstan shall recognised as null and void.
3. The terms and conditions of agreements, collective bargaining agreements and employment contracts may not be amended unilaterally.

Article 11. Acts of the employer

1. The employer issues acts within the bounds of its terms of reference and in accordance with this Code and other regulatory and legal acts, the employment contract, agreements, and the collective bargaining agreement.
2. In cases envisaged by this Code and the collective bargaining agreement, the employer issues acts on agreement or in consideration of the opinion of employees' representatives.
3. Acts of the employer that are detrimental to the employees' status compared with the labour legislation of the Republic of Kazakhstan, the collective bargaining agreement and agreements or that are issued in violation of the procedures indicated in clause 2 of this article are null and void.

Article 12. Procedure for acts of the employer to take into consideration the opinion of employees' representatives or be agreed with the latter

1. The employer, in cases envisaged by this Code, agreements and the collective bargaining agreement, issues acts in consideration of the opinion of or on agreement with employees' representatives.
2. Before issuing an act, the employer shall present the draft thereof and the reasoning therefor to a commission set up in accordance with article 266 of this Code.
3. The draft act of the employer shall be discussed by the commission for no more than three working days from the day of its presentation.
4. Resolutions of the commission shall be drawn up in the form of minutes indicating the employees' representatives' agreement (disagreement) with the draft act of the employer, and setting out their proposals, if any.
5. In the event that the opinion of the employees' representatives does not express agreement with the draft act of the employer or contains proposals for improving it, the employer:
 - 1) on agreement, issues the act amended in consideration of the proposals made by the employees' representatives;
 - 2) on disagreement, has the right to hold additional consultations with the employees' representatives or issue the act in the version proposed thereby.
6. If agreement cannot be reached on draft acts of the employer, for issue of which, in accordance with this Code, agreement with employees' representatives is required, the disagreement shall be formalised in minutes, after which the employer shall have the right to adopt the regulatory act.
7. On issue by the employer of an act not taking the proposals into account in full or in part, the employees' representatives shall have the right to initiate a collective labour dispute procedure in the manner envisaged by this Code.
8. In the event that the issued act of the employer contains provisions violating or detrimental to the rights and guarantees of employees envisaged by this Code, employment contracts, collective bargaining agreements or agreements, it may be appealed to the relevant state labour inspectorate of the state labour authority or to a court of law.

Article 13. Calculation of terms established by this Code

1. A term established by this Code, employment contract, collective bargaining agreement or agreements is determined by a calendar date, expiry of a period of time calculated in years, months, weeks or days. The term may also be determined by indicating an event that is to occur.
2. In cases envisaged by this Code, the term is calculated in working days.
3. A term determined by a period of time shall run from the calendar day following the calendar date on which the event determining the beginning of the term occurs.
4. Terms calculated in years, months and weeks shall expire on the corresponding dates of the last year, month or week. If the term ends in a month lacking a corresponding date, the term shall expire on the last day of this month.

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

5. If the last day of the term is a non-working day, the day on which the term expires shall be the first subsequent working day, unless otherwise envisaged by this Code.

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

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

Chapter 2. TERMS OF REFERENCE OF STATE AUTHORITIES IN THE SPHERE OF LABOUR RELATION REGULATION

Article 15. Terms of reference of the Government of the Republic of Kazakhstan in the sphere of regulation of labour relations

The Government of the Republic of Kazakhstan:

- 1) develops the key spheres and provides for implementation of state policy in the sphere of labour, labour protection and labour safety;
- 2) organises elaboration and performance of state programmes in the sphere of labour protection and labour safety;
- 3) establishes the procedure for organisation and exercise of state control in the sphere of labour protection and labour safety;

- 4) determines the procedure for furnishing information and maintaining state statistics in the sphere of labour protection and labour safety;
- 5) establishes the procedure for engaging foreign manpower;
- 6) determines the size of social allowances, the procedure for awarding them and their payment;
- 7) approves the list of types of illness for which a term of temporary disability of over two months might be established;
- 8) establishes a unified procedure for calculating the average wage;
- 9) approves the Standard provision on labour compensation conditions and bonuses to management personnel of national companies and joint-stock companies in which the controlling blocks of shares belong to the state;
- 10) determines the procedure for joining the civil service and for holding competitions for vacant civil service positions;
- 11) determines the list of civil service jobs;
- 12) concludes a general agreement with republican associations of employers and republican associations of employees;
- 13) establishes the procedure for competent authorities to pass regulatory and legal acts in the sphere of labour protection and labour safety;
- 14) approves the system of labour compensation for employees of organisations maintained out of the state budget;
- 15) determines the general requirements on professional training, retraining and raising of qualifications of personnel in an organisation;
- 16) approves industry mark-up ratios determined by industry agreements;
- 17) creates the commission for investigating group accidents in the event of five or more fatalities.

Article 16. Terms of reference of the state labour authority in the sphere of regulation of labour relations

The state labour authority:

- 1) regulates state policy in the sphere of labour, labour protection and labour safety;
- 2) adopts regulatory and legal acts of the Republic of Kazakhstan establishing general requirements on labour protection and labour safety for all spheres of activity;
- 3) organises state control over observance of the labour legislation of the Republic of Kazakhstan on employment of the population and the requirements on labour protection and labour safety;
- 4) co-ordinates activities of state authorities in developing technical regulations in the sphere of labour protection and labour safety;
- 5) conducts co-ordination and interaction in the sphere of labour protection and labour safety with other state authorities, as well as with representatives of employees and employers;
- 6) establishes the format, the procedure maintaining and keeping work books;
- 7) establishes the procedure for replacing and reviewing model worktime standards and regulations;
- 8) establishes the procedure for presenting, reviewing and agreeing worktime standards in organisations the services (goods, work) of which are embraced by state regulation of tariffs (prices, levies);
- 9) establishes the procedure for presenting, reviewing and agreeing parameters with respect to the system of labour compensation of employees of organisations the services (goods, work) of which are embraced by state regulation of tariffs (prices, levies);
- 10) registers branch agreements and regional agreements concluded at the level of the region (city of republican significance, capital);
- 11) carries out training and certification of state labour inspectors;
- 12) exercises control over timely and objective investigation of industrial accidents in the manner established by the legislation of the Republic of Kazakhstan;
- 13) carries out international co-operation in the sphere of regulation of labour relations;
- 14) elaborates programmes for investigating problems of labour protection and labour safety;

- 15) elaborates and approves the procedure and standards for providing employees with milk, therapeutic and preventive meals, special clothing, special footwear and other means of personal protection, and establishes the procedure for supplying them with means of collective protection, sanitary and living premises and equipment at the employer's expense;
- 16) determines the procedure for elaborating, reviewing, approving and applying handbooks and qualification characteristics;
- 17) considers and agrees model qualification characteristics for the positions of heads, experts and other officials of organisations engaged in various types of economic activities;
- 18) establishes the procedure for approval of model worktime standards and regulations by competent state authorities of corresponding spheres of activity;
- 19) on agreement with an authorised state body in the sphere of healthcare, determines the list of jobs for which it is prohibited to employ employees under the age of eighteen years and maximum weights for transfer and movement by employees under the age of eighteen years;
- 20) on agreement with an authorised state body in the sphere of healthcare, determines the list of jobs for which it is prohibited to employ female employees and maximum weights for manual transfer and movement by female employees;
- 21) determines the list of production facilities, workshops, professions and jobs, the list of heavy work and work under harmful (particularly harmful) and (or) hazardous working conditions;
- 22) organises monitoring and assessment of risks in the sphere of labour protection and labour safety;
- 23) establishes the procedure for mandatory periodical certification of production facilities with respect to working conditions;
- 24) approves the Model provision on the labour protection and labour safety service in an organisation.

Article 17. Terms of reference of territorial subdivisions of the state labour authority in the sphere of regulation of labour relations

Territorial subdivisions of the state labour authority:

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

- 2) perform monitoring of collective bargaining agreements presented by employers;
- 3) analyse the reasons for industrial injuries, occupational diseases and occupational poisoning and develop proposals for preventing them;
- 4) investigate industrial accidents in the manner established by the legislation of the Republic of Kazakhstan;
- 5) test the knowledge of management personnel and persons responsible for providing for labour protection and labour safety at employers, in accordance with the rules approved by the state labour authority;
- 6) participate on acceptance commissions for commissioning industrial facilities;
- 7) work with authorised employees' and employers' representatives to improve labour protection and labour safety standards;
- 8) consider applications by employees, employers and their representatives on aspects of labour protection and labour safety.

Article 18. Terms of reference of local executive bodies in the sphere of regulation of labour relations

Local executive bodies:

- 1) issue resolutions on engaging foreign manpower to perform work on the territory of the corresponding administrative and territorial unit;
- 2) on agreement with the local representative body, determine the list of jobs for healthcare, social security, education, culture and sport experts working in auls (rural areas);
- 3) register branch and regional agreements concluded at the city and district level;
- 4) agree the holding of strikes in organisations providing vital support for the population (public transport, organisations supplying water, electric power and heat);
- 5) conclude district (regional, city, area) agreements with regional associations of employers and regional associations of employees;
- 6) consider and agree worktime and the parameters of the system of labour compensation for employees of organisations the services (goods, work) of which are encompassed by state regulation of tariffs (prices, levies), in the manner established by the state labour authority;

Source: World Intellectual Property Organization
<http://www.wipo.int>

7) set the quota for job placement of population categories determined by the laws of the Republic of Kazakhstan.

Chapter 3. PARTICIPANTS IN LABOUR RELATIONS. GROUNDS FOR EMERGENCE OF LABOUR RELATIONS

Article 19. Participants in labour relations

1. The participants in labour relations are the employee and the employer.

The head of a branch or representative office of a foreign legal entity exercises all the rights and fulfils all the obligations of the employer on behalf of the given legal entity.

2. Individuals and legal entities represent the interests of employees or of the employer within the bounds of the powers assigned to them on the basis of regulatory and legal acts, court rulings, as well as of constituent documents or powers of attorney.

Article 20. Grounds for emergence of labour relations

1. Labour relations arise between the employee and the employer on the basis of the employment contract concluded in accordance with this Code, with the exception of cases established by the laws of the Republic of Kazakhstan.

2. In cases and the manner established by the laws of the Republic of Kazakhstan, constituent documents and acts of the employer, conclusion of the employment contract may be preceded by the following procedures:

- 1) election to (selection for) the position;
- 2) election by competition to replace the corresponding position;
- 3) appointment to the position or affirmation in the position;
- 4) referral to work by legally authorised bodies as part of a set quota;
- 5) issue of a court ruling on conclusion of the employment contract.

Article 21. Conclusion of an employment contract with citizens referred as part of a set quota

1. Local executive authorities establish a quote for job placement of categories of the population determined by the laws of the Republic of Kazakhstan.

2. Employers, within the bounds of the set quota, conclude employment contracts with persons referred for job placement, provided their qualifications comply with the employer's requirements.

Article 22. Basic rights and obligations of the employee 1.

The employee shall have the right to:

- 1) conclude, amend, supplement and cancel an employment contract in the manner and on the conditions envisaged by this Code;
- 2) demand that the employer fulfil the conditions of the employment contract and the collective bargaining agreement;
- 3) labour protection and labour safety;
- 4) receive full and true information about the working conditions and labour safety;
- 5) timely and full payment of wages in accordance with the conditions of the employment contract and the collective bargaining agreement;
- 6) payment for idle time in accordance with this Code;
- 7) rest, including annual paid vacation;
- 8) association, including the right to create a trades union or other association, and be a member thereof for the purpose of representation and protection of his labour rights, unless otherwise envisaged by the laws of the Republic of Kazakhstan;
- 9) participate through his representatives in collective bargaining negotiations and in elaboration of the draft collective bargaining agreement, and to familiarise himself with the signed collective bargaining agreement;
- 10) professional training, further training and raising of qualification in the manner envisaged by this Code;
- 11) recompense for harm caused to his health in connection with fulfilment of job duties;
- 12) mandatory social insurance in cases envisaged by the laws of the Republic of Kazakhstan;
- 13) guarantees and compensation payments;

- 14) protection of his rights and lawful interests by all manners not in contravention of the law;
- 15) equal payment for equal labour without any discrimination;
- 16) referral of a labour dispute to a mediation commission or court of law, at his own choice;
- 17) a work place equipped in accordance with the requirements of labour protection and labour safety;
- 18) provision with personal and collective means of protection and special clothing in accordance with the requirements envisaged by the legislation of the Republic of Kazakhstan on labour protection and labour safety, as well as the employment contract and collective bargaining agreement;
- 19) refuse to perform work in a situation jeopardising his health or life, with notification of his immediate manager or the employer's representative to this effect;
- 20) retention of his average wage during suspension of the work of the organisation as a result of failure to comply with labour protection and labour safety requirements;
- 21) apply to the state labour authority or its territorial subdivisions for investigation of the labour protection and labour safety conditions at the work place, as well as at representative participation in the investigation and consideration of issue connected with improving working conditions, labour protection and labour safety;
- 22) appeal against actions (inaction) on the part of the employer in the sphere of labour protection and labour safety;
- 23) payment for labour in accordance with his qualification, the complexity of the work, the quantity and quality of the work performed, as well as the working conditions;
- 24) participation in management of the organisation in forms envisaged by this Code, other laws of the Republic of Kazakhstan and the collective bargaining agreement;
- 25) resolution of individual and collective labour disputes, including the right to strike, in the manner established by this Code and other laws of the Republic of Kazakhstan.

2. The employee shall:

- 1) perform his job duties in accordance with the employment contract, collective bargaining agreement, and acts of the employer;

- 2) observe labour discipline;
 - 3) observe the requirements of labour protection and labour safety, fire safety and production hygiene at the work place;
 - 4) take care of the property of the employer and of employees;
 - 5) inform the employer of any situation jeopardising human life and health, safekeeping of property of the employer and of employees, as well as threatening occurrence of idle time;
 - 6) not divulge information constituting state secrets, official, trade or other secrets protected by law that becomes known to him in connection with performance of his job duties;
 - 7) reimburse the employer for harm caused, within the limits established by this Code.
3. The employee shall have other rights and shall fulfil other obligations envisaged by this Code.

Article 23. Basic rights and obligations of the employer

1. The employer shall have the right to:

- 1) free choice of hiring;
- 2) amend, supplement or cancel employment contracts with employees in the manner and on the grounds established by this Code;
- 3) issue acts of the employer within the bounds of its authority.

Issue of acts connected with a change of working conditions shall be carried out in accordance with article 48 of this Code;

- 4) create and join associations for the purpose of representation and protection of its rights and interests;
- 5) require employees to fulfil the conditions of employment contracts, collective bargaining agreements, internal labour rules and other acts of the employer;
- 6) give incentives to employees, impose disciplinary sanctions and hold employees materially liable in cases and in the manner envisaged by this Code;

7) recompense for harm inflicted by an employee in performance of his job duties;

8) appeal to a court of law for the purpose of protecting its rights and lawful interests in the sphere of labour;

9) set a probation period for the employee;

10) recompense for expenditures connected with training the employee, if this is stipulated by the conditions of the employment contract.

2. The employer shall:

1) observe the requirements of the labour legislation of the Republic of Kazakhstan, agreements, collective bargaining agreements, employment contracts, and acts issued thereby;

2) when hiring, conclude employment contracts with employees in the manner and on the conditions established by this Code;

3) exercise internal control over labour protection and labour safety;

4) provide the employee with the work prescribed by the employment contract;

5) pay the employee wages and other payments envisaged by the regulatory and legal acts of the Republic of Kazakhstan, the employment contract, collective bargaining agreement, and acts of the employer in a timely manner and in full;

6) familiarise the employee with acts of the employer and the collective bargaining agreement;

7) provide the employees' representatives with full and accurate information, as required for conducting collective bargaining negotiations, concluding collective bargaining agreements, and monitoring their performance;

8) consider proposals submitted by employees' representatives, hold collective bargaining negotiations and, in the manner established by this Code, conclude a collective bargaining agreement;

9) provide to employees with working conditions in accordance with the labour legislation of the Republic of Kazakhstan, employment contracts and collective bargaining agreements;

10) provide employees with equipment, tools, technical documentation and other means necessary for performance of their job duties at its own expense;

11) fulfil instructions issued by state labour inspectors;

- 12) halt work if its continuation creates a threat to the life or health of the employee and other persons;
 - 13) undertake mandatory social insurance of employees;
 - 14) insure civil law liability for causing harm to the life and health of the employee in fulfilment thereby his job duties;
 - 15) provide the employee with annual paid vacation;
 - 16) ensure the safekeeping and submission to the state archives of documents confirming the labour activities of employees, and information on withholding and payment of funds for their pension provision;
 - 17) warn the employee of harmful (particularly harmful) and (or) hazardous working conditions and the possibility of occupational disease;
 - 18) take measures to prevent risks at the work place and in manufacturing processes, and perform preventive work in consideration of production and scientific and technical progress;
 - 19) precisely record time worked by each employee, including overtime, under harmful (particularly harmful), hazardous working conditions, and doing heavy work;
 - 20) provide employees with occupational training, retraining and raising of their qualifications in accordance with this Code;
 - 21) provide recompense for harm caused to the life and health of the employee, in accordance with the legislation of the Republic of Kazakhstan;
 - 22) allow officials of the state labour authority and of territorial subdivisions of the state labour authority, employees' representatives and public labour safety inspectors with unimpeded access for checking on labour protection, working conditions and labour safety in organisations and observance of the legislation of the Republic of Kazakhstan on labour protection and labour safety, as well as for investigating industrial accidents and occupational diseases;
 - 23) demand, at the time of hiring, the documents necessary for concluding an employment contract in accordance with article 31 of this Code.
3. The employer shall have other rights and fulfil other obligations envisaged by this Code.

SPECIAL PART

SECTION 2. LABOUR RELATIONS

Chapter 4. THE EMPLOYMENT CONTRACT

Article 24. Subject of the employment contract

Under an employment contract, the employee fulfils work (labour function) in accordance with his qualifications for a remuneration and observes the labour regulations, while the employer provides working conditions, pays the employee his wages in a timely manner and in full and makes other payments envisaged by the labour legislation of the Republic of Kazakhstan, the employment contract, the collective bargaining agreement, and agreement between the parties.

Article 25. Guarantees of equal rights and opportunities on conclusion of the employment contract

1. It is prohibited to violate equality of rights and opportunities in concluding an employment contract.
2. Pregnancy, the existence of children up to the age of three years, being under age, and disability may not restrict the right to conclude an employment contract, with the exception of cases envisaged by this Code.

At the demand of the categories of people indicated in the first paragraph of this clause, the employer shall notify the reason for refusal in writing.

3. On establishment of a fact of violation of equality of rights and opportunities in concluding an employment contract, the employer shall bear the liability established by the laws of the Republic of Kazakhstan.

Article 26. Restrictions on conclusion of an employment contract

Conclusion of an employment contract shall not be permitted:

- 1) for performance of work contraindicated for the person by reason of health on the basis of a medical opinion;

- 2) with citizens under the age of eighteen years for performance of heavy of work, work under harmful (particularly harmful) and (or) hazardous working conditions, as well as for a position and for work envisaging full material liability of the employee for failing to ensure safekeeping of property and other values of the employer;
- 3) with citizens deprived of the right to hold a specific position or engage in a specific activity in accordance with a court sentence that has come into legal effect;
- 4) with foreigners and stateless persons temporarily residing on the territory of the Republic of Kazakhstan, before receiving a resolution from the local executive authority on engagement of foreign manpower in the manner established by the Government of the Republic of Kazakhstan, or without observance of the restrictions or waivers established by the laws of the Republic of Kazakhstan.

Article 27. The distinction between an employment contract and other types of agreement

The features distinguishing an employment contract from other types of agreement consist in inclusion of the following conditions:

- 1) performance by the employee of work (labour function) according to specific qualifications, speciality, profession or position;
- 2) performance of obligations personally in observance of the internal labour regulations;
- 3) receipt by the employee of a wage for labour.

Article 28. Content of the employment contract

1. The employment contract shall contain:

1) the details of the parties:

full name, including patronymic (if indicated in the identity document) of an individual employer, his permanent residential address, the name, number and date of issue of his identity document, and taxpayer's registration number;

full name of a legal entity employer and its location, the number and date of state registration of the legal entity employer, and taxpayer's registration number;

full name, including patronymic (if indicated in the identity document) of the employee, name, number, and date of identity document; individual identification number, taxpayer registration number, individual social code;

- 2) the job according to a certain speciality, qualifications or position (labour function);
- 3) place of job performance;
- 4) term of the employment contract;
- 5) job starting date;
- 6) working time and rest time regime;
- 7) amount and other conditions of labour compensation;
- 8) description of the working conditions, guarantees and benefits, if the job involves heavy work and (or) is performed under harmful (particularly harmful) and (or) hazardous conditions;
- 9) rights and obligations of the employee;
- 10) rights and obligations of the employer;
- 11) procedure for amending or terminating the employment contract;
- 12) guarantees and compensation payments, the procedure for their payment;
- 13) insurance conditions;
- 14) responsibility of the parties;
- 15) date of conclusion and contract number.

2. On agreement between the parties to the employment contract, other conditions may be included that do not contravene the legislation of the Republic of Kazakhstan.

3. Provisions of an employment contract that create a worse position for employees than that stipulated by the labour legislation of the Republic of Kazakhstan shall be recognised as null and void.

Article 29. Term of the employment contract

1. An employment contract may be concluded:

- 1) for an indefinite period;
- 2) for a specific period of not less than one year, apart from cases established by subclauses 3), 4) and 5), clause 1 of this article.

In the event of repeat conclusion of an employment contract with an employee that previously concluded a contract for a specific period of not less than one year, including in the event of prolongation of an employment contract, it shall be deemed to have been concluded for an indefinite period.

It is prohibited to conclude employment contracts for a specific period for the purpose of avoiding granting the guarantees and compensation envisaged for employees with whom an employment contract is concluded for an indefinite period.

In the event that, on expiry of the employment contract, neither of the parties demands, within a period of one day, termination of the labour relations, it shall be deemed to have been concluded for an indefinite period;

- 3) for the time required to fulfil a specific job;
- 4) for the time required to replace an absent employee;
- 5) for the time required to fulfil seasonal work.

2. An employment contract for work in the position of head of the executive body of a legal entity employer shall be concluded for the term set in the constituent documents of the employer or by agreement between the parties. The provisions established by clause 3 of this article shall not apply to such a contract.

3. If the employment contract does not specify its term of validity, the contract shall be deemed to have been concluded for an indefinite period.

Article 30. Age from which it is permitted to conclude an employment contract

1. It is permitted to conclude employment contracts with citizens who have reached the age of sixteen years.
2. With the written consent of one parent, guardian or adoptive parent, an employment contract may be concluded with:
 - 1) citizens who have reached the age of fifteen years, in cases when they have received a secondary education in a general educational institution;
 - 2) pupils who have reached the age of fourteen years for performance, during time free from study, of work that is not harmful to the health and does not disrupt the study process;
 - 3) persons who have not reached the age of fourteen years, in cinematography, theatrical and concert organisations and circuses, for participation in creating and (or) performing works without detriment to the health or moral development and in observance of the conditions determined by subclause 2), clause 2 of this article.
3. In cases determined by clause 2 of this article, the employment contract shall be signed by a parent, guardian or adoptive parent as well as by the minor.

Article 31. Documents required for concluding an employment contract

1. For conclusion of an employment contract, the following documents are required:
 - 1) identity document or passport (birth certificate for persons under the age of sixteen years);
 - 2) residence permit or stateless person's certificate (for foreigners and stateless persons permanently resident on the territory of the Republic of Kazakhstan);
 - 3) document certifying education, qualifications, possession of special knowledge or occupational training on conclusion of an employment contract for work requiring corresponding knowledge, abilities and skills;
 - 4) document confirming labour activities (for persons with a service record);
 - 5) military registration document (for people liable for military services and subject to conscription for military service);
 - 6) document on preliminary medical fitness certification (for persons required to undergo medical fitness certification in accordance with this Code and the legislation of the Republic of Kazakhstan);

7) copies of allocation of a taxpayer registration number and individual social code.

2. The employer does not have the right to demand documents not envisaged by clause 1 of this article.

3. In the event of storage by the employer, with the employee's consent, of the original documents or their temporary holding for the purpose of performance of the procedures established by the legislation of the Republic of Kazakhstan, the employer shall issue the employee with a written obligation to return the documents.

Article 32. Procedure for conclusion, amendment and supplementation of the employment contract

1. An employment contract shall be concluded in written form in at least two copies and shall be signed by the parties. One copy of the employment contract shall be kept by the employee and one by the employer. Receipt by the employee of a copy of the employment contract shall be confirmed in writing.

2. Introduction of amendments and supplements to the employment contract, including for transfer to a different job, shall be made by the parties in writing in the manner envisaged by clause 1 of this article.

A proposal to amend the terms and conditions of the employment contract shall be submitted by one of the parties to the employment contract in written form and shall be considered by the other party within a period of seven calendar days of its submission.

3. An employment contract with officials on an organisation's executive body shall be concluded by the owner of the property of the organisation or by a person or body authorised thereby in the manner established by the constituent documents of the organisation.

Article 33. Documentation of hiring for work

1. Hiring for work shall be drawn up by an act of the employer issued on the basis of the employment contract concluded.

2. The employer shall, within a period of three days, familiarise the employee with said act. Familiarisation with the employer's act shall be certified by the employee's signature.

3. At the employee's demand, the employer shall provide him with a duly certified copy of the act.

On hiring for work, the employer shall acquaint the employee with the internal labour regulations of the organisation, other acts of the employer relating to the job (labour function) of the employee and the collective bargaining agreement.

Source: World Intellectual Property Organization

<http://www.wipo.int>

Article 34. Documents confirming labour activities of the employee Any of the following may confirm the labour activities of the employee:

- 1) work book;
- 2) employment contract with an entry by the employer on the date and grounds for termination thereof;
- 3) extracts from acts of the employer confirming origination and termination of labour relations on the basis of conclusion and termination of the employment contract;
- 4) extracts from the employees' payroll ledger;
- 5) service record (the list of data about the work and labour activities of the employee), signed by the employer, with the organisation's seal affixed or notarised;
- 6) archive transcript containing information about the labour activities of the employee.

Article 35. Work book

1. The work book is a document containing information about the labour activities of the employee.
2. The format, procedure maintaining and storing work books are established by the state labour authority.
3. The employer shall make relevant entries in the employees' work book (if available) on his labour activities within the organisation.
4. Entries in the work book concerning the reasons for termination of the employment contract shall be made indicating the rules of this Code.

Article 36. Condition on the probationary period in an employment contract

1. In an employment contract, a condition may be established on a probationary period for the purpose of verifying that the employee's qualifications comply with the job allocated thereto. In the absence of a condition on a probationary period in the employment contract, the employee will be considered to have been hired without a probationary period.
2. The probationary period shall start in conjunction with the term of the employment contract.

3. During the probationary period, the rules of this Code, and the terms and conditions of the employment contract and the collective bargaining agreement shall apply to the employee.

4. The probationary period shall be included in the employee's service record and may not exceed three months. Periods when the employee is absent from work shall not be included in the probationary period.

5. Probationary period shall not be established for:

persons hired on a competitive basis to take up a position;

persons completing a secondary or higher professional education and starting work for the first time in the specialty studied;

the disabled.

Article 37. Result of the probationary period on hiring

1. If the results of the employee's probationary period are negative, the employer shall have the right to terminate the employment contract with him, having warned him in writing to this effect no earlier than seven calendar days before expiry of the probationary period, indicating the reasons for the employee being recognised as not having completed the probationary period successfully.

2. If the probationary period has expired and neither of the parties has demanded termination of the employment contract, the employee shall be deemed to have completed the probationary period successfully.

3. In the event that the employer appoints the employee to a higher position before expiry of the probationary period, the employee shall also be deemed to have completed the probationary period successfully.

Article 38. Coming into effect of the employment contract

1. The term of validity of the employment contract shall begin from the day of its signing by the parties or the date established therein.

2. The employees shall be permitted to take up his position only after the parties have signed the employment contract.

3. In the event of absence of an employment contract and (or) incorrect execution of an employment contract at the fault of the employer, the latter shall be liable in the manner established by the laws of the Republic of Kazakhstan. In this case, the labour relations shall be deemed to arise from the date on which the employee takes up his position.

Article 39. Invalidity of the employment contract

1. An employment contract shall be recognised as invalid by a court of law if concluded:

- 1) under the influence of deception, force or threat;
- 2) without the intent to create actual or legal consequences (a sham employment contract);
- 3) with a person declared legally incompetent;
- 4) with a person under the age of fourteen years, with the exception of the cases envisaged by subclause 3), clause 2, article 30 of this Code;
- 5) with a person under the age of sixteen years without the written consent of a parent, guardian or adoptive parent.

2. Recognition of the employment contract as invalid at the fault of the employer shall not entail loss by the former employee of his rights to payment for his labour, compensation for unused annual paid leave, other payments and benefits.

3. Recognition of the employment contract as invalid at the fault of the employer or of the employee shall entail their liability in accordance with the laws of the Republic of Kazakhstan.

4. Recognition of individual terms and conditions of an employment contract as null and void shall not entail invalidity of the employment contract as a whole.

Article 40. Prohibition on performance of work, not stipulated in the employment contract

The employer shall not have the right to demand that the employee perform work not stipulated by the employment contract, with the exception of cases envisaged by this Code and the laws of the Republic of Kazakhstan.

Article 41. Transfer of the employee at another job

1. The following shall constitute transfer of the employee to another job:

1) change of the work (labour function) of the employee, that is, performance of work in another position, speciality, profession or qualifications;

2) assignment of work during performance of which the working conditions (size of the wage, working time and rest time regime, benefits and other conditions) determined by the employment contract are changed;

3) transfer to a separate structural subdivision of the employer;

4) transfer to another location together with the employer.

2. Transfer of the employee to another job shall be permitted with the consent of the employee, shall be formalised by introduction of relevant amendments into the employment contract and issue of an act of the employer, with the exception of cases envisaged by this Code.

3. Movement of the employee, within the same organisation, to another work place, another structural subdivision of this organisation at the same location or assignment of work at another mechanism or piece of equipment shall not constitute transfer to another job and shall nor require the employee's consent, provided it does not entail the amendments envisaged in clause 1 of this article.

Article 42. Transfer of the employee to another location together with the employer

1. The employer shall give the employee at least one month's written notice of the impending movement of the employer to another location, unless the employment contract or collective bargaining agreement envisages a longer notice period.

2. The employer shall make compensation payments connected with the employee's relocation in the event of his transfer to work at another location together with the employer, as envisaged by article 153 of this Code.

3. In the event of a written refusal by the employee to transfer to another location together with the employer, the employment contract with the employee shall be terminated on the grounds envisaged by subclause 1), clause 1, article 59 of this Code.

Article 43. Temporary transfer to another job for production purposes

If necessary for production purposes, including temporary replacement of an absent employee, the employer shall have the right to transfer an employee without his consent for a period of up to one month in the course of the calendar year to another job not encompassed by the employment contract and not contraindicated for him in terms of his state of health, within the same organisation, at the same location, with payment for the work performed being no less than the average wage for the work previously carried out.

Article 44. Temporary transfer to another job in the event of idle time

1. In the event of idle time, the employer shall have the right to transfer the employee without his consent and in consideration of his speciality and qualifications, to another job not contraindicated for him in terms of his state of health for a period of no more than one month in the course of the calendar year.
2. For transfer in the event of idle time, the labour compensation to the employee shall be made for the work performed, but shall be at least two-thirds of the average wage for the work previously carried out.

In the event of a written refusal by the employee to continue working in connection with the change in the working conditions, the employment contract with the employee shall be terminated on the grounds envisaged by subclause 2), clause 1, article 59 of this Code.

Article 45. Temporary transfer to another job for health reasons

1. The employee shall be temporarily transferred to easier work for health reasons for the period indicated in the medical opinion. On agreement between the parties, the employee may retain his salary from the work previously performed.
2. In connection with injury, occupational disease or other damage to health resulting from fulfilment of job duties, the employer shall, until working capacity is restored or disability established, transfer the employee to easier work or release him from work with payment of damages in accordance with the civil legislation of the Republic of Kazakhstan, as well as the terms and conditions of the employment contract and the collective bargaining agreement.
3. In the case of written refusal by the employee to transfer to other work in the event of industrial injury or occupational disease resulting from fulfilment of job duties or other damage to the health not connected with production, the employment contract with the employee shall be terminated on the grounds envisaged by subclause 4), clause 1, article 59 of this Code.

Article 46. Restriction on transfer of the employee to another job

It shall not be permitted to transfer the employee to another job contraindicated for the employee for health reasons, confirmed by a medical opinion.

Article 47. Movement of the employee at another work place.

Change of position (job) title

1. The consent of the employee shall not be required for his movement to another work place or another structural subdivision at the same location or assignment of work at another mechanism or piece of equipment within the scope of his position, speciality, profession and qualifications, as determined by the employment contract, with the exception of cases when work in the structural subdivision, at the specific work place, mechanism or piece of equipment involves other working conditions.

2. A change in the position (job) title of the employee, of the structural subdivision, or a change in the management structure not entailing for the employee a change of working conditions and (or) the terms and conditions of the employment contract may be implemented by the employer without the employee's consent.

Article 48. Change of working conditions

1. In connection with changes in the organisation of production, including in the event of reorganisation, and (or) a reduction in the volume of work, it shall be permitted for the employer to change the working conditions of the employee given that he continues working in a position, speciality or profession corresponding to his qualifications, as determined by the employment contract.

In the event of a change of working conditions, relevant supplements and amendments shall be introduced into the employment contract and (or) the collective bargaining agreement.

2. The employer shall give at least one month's written notice to the employee and (or) his representatives of the change of working conditions, unless a longer notice period is envisaged by the employment contract or collective bargaining agreement.

If the employee does not agree to continue working under the new conditions, the employer shall offer him, in writing, any other available job corresponding to his qualifications and state of health and, in

the absence of such a job, a vacant lower position or lower-paid job that the employee might perform in consideration of his qualifications and state of health.

3. In the event of written refusal by the employee to continue working in connection with the change of working conditions, the employment contract with the employee shall be terminated on the grounds envisaged by subclause 2), clause 1, article 59 of this Code.

4. In the event that the circumstances indicated in clause 1 of this article might entail a reduction in staff numbers or positions, the employer shall have the right, for the purpose of retaining work places and in consideration of the opinion of the employees' representatives, to introduce a part-time work regime.

Abolition of a part-time work regime that might entail a reduction in staff numbers or positions shall be carried out in consideration of the opinion of the employees' representatives.

Article 49. Labour relations in the event of a change of name, departmental affiliation, owner of the property or of reorganisation of the employer

In the event of a change in the name, departmental affiliation, or owner of the property or of reorganisation of the employer, labour relations with the employees shall continue without change.

Article 50. Suspension from work

1. In cases envisaged by the laws of the Republic of Kazakhstan, the employer shall suspend the employee from his job on the basis of acts issued by competent state authorities.

2. In addition to the cases envisaged in clause 1 of this article, the employer shall suspend an employee that:

1) arrives at work under the influence of alcohol, narcotics or other toxic substances (and their analogues) or consumes intoxicating substances during the working day;

2) does not pass the examinations in the labour protection and labour safety rules;

3) does not use the means of personal and (or) collective protection provided by the employer;

4) does not pass the medical examination or pre-shift medical certification, if these are mandatory in accordance with the legislation of the Republic of Kazakhstan;

5) if his actions or failure to act cause an accident, violation of the rules for labour safety, fire protection or traffic safety.

Source: World Intellectual Property Organization

<http://www.wipo.int>

3. During the period of his suspension from his job, the employee shall not receive his wage and shall not be paid temporary disability allowances at the employer's expense, with the exception of maternity benefits.

4. The employee shall be suspended from his job for the period until the reasons constituting grounds for suspension are clarified and (or) eliminated.

5. The employee shall retain his wage in the event of his unlawful suspension from his job by the employer.

Article 51. Grounds for termination of the employment contract

The grounds for termination of the employment contract are:

- 1) cancellation of the employment contract by agreement between the parties;
- 2) expiry of the term of validity of the employment contract;
- 3) cancellation of the employment contract on the initiative of the employer;
- 4) cancellation of the employment contract on the initiative of the employee;
- 5) circumstances beyond the will of the parties;
- 6) withdrawal by the employee from the labour relations;
- 7) transfer of the employee to an elected job (position) or his appointment to a position excluding the possibility of continuation of the labour relations, apart from cases envisaged by the laws of the Republic of Kazakhstan;
- 8) violation of the terms and conditions for conclusion of the employment contract;
- 9) grounds envisaged in the employment contract concluded with the head of the employer's executive body.

Article 52. Cancellation of the employment contract by agreement between the parties

1. An employment contract might be cancelled by agreement between the parties.
2. A party to an employment contract expressing the desire to cancel the employment contract by agreement between the parties shall send a notification to this effect to the other party to the

employment contract. The party that receives this notification shall, within a period of three working days, notify the other party in writing of its decision.

3. The date of cancellation of the employment contract by agreement between the parties shall be determined on agreement between the employee and the employer.

4. On agreement with the employee, the employment contract might envisage the right of the employer to cancel the employment contract without observing the requirements established by clause 2 of this article, with a severance fee in the amount of at least the average annual wage.

Article 53. Termination of the employment contract on expiry of its term of validity

1. An employment contract concluded for a specific period shall be terminated in connection with expiry of its term of validity.

2. The date of expiry of an employment contract concluded for a specific period shall be the final day on which the employee performs his job in accordance with the term stipulated by the employment contract.

3. The date of expiry of an employment contract concluded for the period of performance of specific work shall be the day on which the work is completed.

4. The date of expiry of an employment contract concluded for a period of replacement of a temporarily absent employee shall be the day on which the employee whose job (position) has been maintained returns to work.

5. If, on expiry of the employment contract, the labour relations in fact continue and neither of the parties demands their termination, the contract shall be deemed to have been prolonged for an indefinite period.

Article 54. Grounds for cancellation of the employment contract on the initiative of the employer

1. An employment contract with an employee may be cancelled on the initiative of the employer in the following cases:

- 1) liquidation of a legal entity employer or termination of the activities of an individual employer;
- 2) reduction in staff numbers or positions;

- 3) unfitness of the employee for the position held or work performed as a consequence of inadequate qualifications;
- 4) unfitness of the employee for the position held or work performed as a consequence of health reasons hampering continued performance of the given work;
- 5) a negative result of work performed during a probationary period;
- 6) absence of the employee from work without good reason for a period of three or more hours in a row during a single working day (work shift);
- 7) presence of the employee at work under the influence of alcohol, narcotics or toxic substances (or their analogues), including in cases of consumption during the working day of intoxicating substances (or their analogues);
- 8) violation by the employee of the rules for labour safety or fire safety or traffic safety entailing or capable of entailing serious consequences, including injuries and accidents;
- 9) theft (including minor theft) by the employee in the work place of other people's property, its deliberate destruction or damage, as established by a sentence or court ruling that has come into legal effect;
- 10) culpable actions or inaction on the part of an employee dealing with money or goods if these actions or inaction provide grounds for the employer to lose his trust in him;
- 11) an immoral act carried out by an employee fulfilling educational functions that is incompatible with continued performance of the given work;
- 12) divulgence by the employee of information constituting state secrets or other secrets protected by law that he acquired in connection with performance of his job duties;
- 13) repeat failure by the employee to fulfil or duly fulfil his job duties, without good reason, provided a disciplinary sanction has been imposed thereon;
- 14) termination of the employee's access to state secrets in cases established by the laws of the Republic of Kazakhstan;
- 15) knowing provision by the employee to the employer of false documents or information on conclusion of the employment contract, if the genuine documents or information might constitute grounds for refusal to conclude the employment contract;

16) violation by the head of the employer's executive body, his deputy or heads of subdivisions of the employer of their job duties resulting in material damage to the employer;

17) absence of the employee from work for over two months in a row as a consequence of temporary disability, with the exception of cases when the employee is on maternity leave or if the relevant disease is included on the list of illnesses for which a longer term of disability is established, approved by the Government of the Republic of Kazakhstan.

For an employee disabled in connection with an industrial accident or occupational disease, his job (position) is retained until his working capacity is restored or disability established;

18) a corruption-related crime committed by the employee and excluding, in accordance with a judicial act, the possibility of his continued work.

2. For individual categories of employees, this Code envisaged additional grounds for cancellation of employment contracts on the initiative of the employer.

Article 55. Restriction on the possibility of labour contract cancellation on the initiative of the employer

Cancellation of the employment contract on the initiative of the employer shall not be permitted during a period of temporary disability and while the employee is on annual paid leave, with the exception of the case envisaged by subclause 1), clause 1, article 54 of this Code.

Article 56. Procedure for cancellation of the employment contract on the initiative of the employer

1. The employer shall, on the grounds envisaged by subclauses 1) and 2), clause 1, article 54 of this Code, serve at least one month's written notice on the employee of cancellation of the employment contract, unless the employment contract or collective bargaining agreement envisaged a longer notice period. With the written consent of the employee, the employment contract may be cancelled before expiry of the notice period.

2. Cancellation of employment contracts with employees who are members of a trades union on the grounds envisaged by subclauses 2) and 3), clause 1, article 54, as well as termination of the employment contract in accordance with subclause 2), clause 1, article 59 of this Code shall be carried out in consideration of the reasoned opinion of the trades union of the given organisation in the manner envisaged by the collective bargaining agreement.

3. Cancellation of an employment contract in accordance with subclause 4), clause 1, article 54 of this Code, unfitness of the employee for the position held or work fulfilled for health reasons hampering continuation of the given work shall be confirmed by a medical and social examination opinion in the manner established by the legislation of the Republic of Kazakhstan.

4. Cancellation of an employment contract on the grounds envisaged by subclauses 6) – 13) and 16), clause 1, article 54 of this Code shall be carried out in observance of the procedure for imposition of disciplinary sanctions, as envisaged by article 73, and of the requirements of article 74 of this Code.

5. The employer shall, in the event of cancellation of the employment contract on the grounds envisaged by subclauses 2) – 4), clause 1, article 54 of this Code, take steps to transfer the employee to another job, given his consent.

6. Cancellation of the employment contract on the initiative of the employer owing to unfitness of the employee for the position held or work performed as a consequence of inadequate qualifications shall be based on a decision of an appraisal commission including an employees' representative, unless otherwise established by the laws of the Republic of Kazakhstan.

The procedure and conditions for and frequency of employee appraisals shall be determined by the collective bargaining agreement and, in its absence, by an act of the employer.

Article 57. Cancellation of the employment contract on the initiative of the employee

1. The employee shall have the right to cancel the employment contract on his own initiative by giving the employer at least one month's written notice to this effect, with the exception of the cases envisaged by clause 4 of this article.

2. On agreement between the employee and the employer, the employment contract may be cancelled before expiry of the notice period envisaged by clause 1 of this article.

3. The employee shall serve written notice on the employer of cancellation of the employment contract at the time indicated in the application in cases when the employment contract is cancelled owing to impossibility of continuing work.

4. The employee shall have the right to notify the employer in writing of non-performance by the employer of the terms and conditions of the employment contract. In the event that, on expiry of a period of seven days, non-performance by the employer of the terms and conditions of the

employment contract continues, the employee shall have the right to cancel the employment contract by serving at least three working days' written notice on the employer.

5. During the notice period envisaged by this article, the employee shall have the right to revoke, in writing, its application for cancellation of the employment contract.

6. On expiry of the notice period indicated in this article, the employee shall have the right to cease work, while the employer shall issue to the employee the documents associated with his labour activities and any payments due thereto.

7. For individual categories of employees, this Code envisages a special procedure for cancelling the employment contract on the initiative of the employee.

Article 58. Termination of the employment contract by virtue of circumstances not dependent on the will of the parties

1. An employment contract shall be subject to termination by virtue of the following circumstances not dependent on the will of the parties:

1) on conscription of the employee (initiation by the employee) of military service from the day on which the employee presents the relevant document within a maximum of three days;

2) on a court sentence coming into legal force against the employee or the employer excluding the possibility of continued labour relations;

3) in the event of death of the employee or of an individual employer, as well as in the event of a court declaring the employee or an individual employer deceased or missing;

4) in the event of a court recognising the employee as legally incompetent or of limited competence, as a result of which the employee is unable to continue performing his previous work;

5) in the event of reinstatement in the job of the employee that previously performed this work.

2. The date of termination of the employment contract on the grounds indicated in subclauses 2) – 4), clause 1 of this article shall be the date on which the sentence or court ruling comes into effect or the date of death.

Article 59. Termination of the employment contract in the event of withdrawal by the employee from the labour relations

1. An employment contract with an employee shall be subject to termination in the event of withdrawal by the employee from labour relations in cases:

- 1) refusal by the employee to transfer to another location together with the employer;
- 2) refusal by the employee to continue work in connection with a change in the working conditions;
- 3) refusal by the employee to continue work in the event of reorganisation of a legal entity employer;
- 4) refusal by the employee to transfer to another job in the event of receiving an industrial injury or occupational disease in connection with fulfilment of his job duties or other damage to his health not connected with production.

2. Termination of the employment contract shall be permitted only given written withdrawal by the employee from the labour relations.

3. Termination of the employment contract shall not be permitted during a period of temporary disability of the employee (including maternity leave) and of leave.

Article 60. Cancellation of the employment contract in connection with transfer by the employee to an elected job(position) or appointment to the position

An employment contract with an employee shall be cancelled in connection with his transfer to an elected job (position) or appointment to the position, if the laws of the Republic of Kazakhstan prohibit people holding such positions from engaging in other paid work.

The grounds for this shall consist in notification of the employer by the employee and a certificate of election or appointment of the employee to the job (position).

Article 61. Termination of the employment contract as a consequence of violation of the terms and conditions for conclusion of an employment contract

1. An employment contract shall be subject to termination as a consequence of violation of the terms and conditions for conclusion of an employment contract, if said violation excludes the possibility of continued labour relations in cases of:

- 1) conclusion of an employment contract for performance of work contraindicated for the employee by reason of his state of health on the basis of a medical opinion;

2) conclusion of an employment contract for performance of work in violation of a sentence or court ruling that has come into legal effect and deprives the person of the right to hold certain positions or engage in certain activities;

3) conclusion of an employment contract with foreigners or stateless persons without obtaining, in the established manner, a resolution on engagement of foreign manpower or without observing the restrictions or exemptions established by the laws of the Republic of Kazakhstan;

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

2. Termination of an employment contract on the grounds envisaged by subclauses 1) – 2), clause 1 of this article, shall be permitted if it is impossible to transfer the employee, with his consent, to another job with the employer that the employee can perform without restrictions. Given the consent of the employee to transfer to another job, an employment contract shall be concluded with him.

3. In the event of termination of the employment contract in the cases envisaged by subclauses 1) and 3), clause 1 of this article, the employer shall pay the employee compensation in the amount of his average wage for three months.

Article 62. Documentation of employment contract termination

1. Termination of an employment contract shall be documented by an act of the employer, with the exception of termination of an employment contract in the event of death of an individual employer (the employer is declared deceased or missing by a court of law) and termination of an employment contract with domestic employees.

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

3. The date of termination of the employment contract shall be the final day of work, with the exception of cases envisaged in this Code.

4. A copy of the act of the employer on termination of the employment contract shall be handed to the employee or sent to him by registered post within a period of three days.

Article 63. Issue of work books and documents associated with labour activities

1. On the day of termination of the employment contract, the employer shall issue the work book or other document confirming the labour activities performed by the employee.
2. At the request of the employee (including a former employee), the employer shall, within a period of five working days from the time of the application, issue a statement indicating the speciality (qualifications, position), time worked and wage, a reference containing information about the employees' qualifications and his attitude to his job, as well as other documents envisaged by this Code.
3. In the event of liquidation of bankruptcy of a legal entity employer or termination of the activities of an individual employer, the employer shall, given a debt towards the employee, issue a duly executed statement on the amount of the debt on wages and other payments.

Chapter 5. PROTECTION OF THE WORKER'S PERSONAL DATA

Article 64. Personal data of the employee and its processing

Personal data of the employee consists of information about the employee required on the initiation, continuation and termination of labour relations.

Processing of personal data of the employee shall mean receipt, storage and transmission of the personal data of the employee.

Article 65. Requirements on processing of personal data of the employee

During processing of personal data of the employee, the employer shall observe the following requirements:

- 1) processing of personal data of the employee shall be carried out for the purpose of ensuring observance of the laws and other regulatory and legal acts, assisting employees in job placement, training and career advancement, and ensuring personal protection of employees;
- 2) the volume and the content of the employee's personal data processed shall be determined in accordance with the Constitution of the Republic of Kazakhstan, this Code and other laws of the Republic of Kazakhstan;
- 3) personal data shall be supplied personally by the employee;

4)the employer shall not have the right to demand from the employee information on his political, religious or other convictions or his private life;

5)the employer shall not have the right to demand from the employee information on his membership or activities in public associations, including trades unions;

6)in adopting decision affecting the interests of the employee, the employer shall not have the right to proceed from personal data of the employee received as a result of their automated or electronic processing;

7)protection of personal data of the employee shall be ensured by the employer in the manner established by the legislation of the Republic of Kazakhstan.

Article 66. Storage of personal data of the employee

The procedure for storing personal data of the employee in an organisation shall be established by the employer in observance of the requirements established by the legislation of the Republic of Kazakhstan.

The employee shall be familiarised with the act of the employer establishing the procedure for storing personal data of the employee.

Article 67. Transmission of personal data of the employee

1. In transmitting personal data of the employee, the employer shall observe the following requirements:

1)not to communicate personal data of the employee to a third party without the written consent of the employee;

2)to allow access to personal data of employees only to specially authorised persons. The given persons shall, moreover, have the right to receive only the personal data of the employee required for fulfilment of specific functions, and shall observe the regime of confidentiality;

3)to transmit personal data of the employee within the organisation in accordance with an act of the employer, with which the employee shall be acquainted.

2. Persons to whom personal data of the employee are transmitted shall use them exclusively for the purpose for which they are communicated and shall not have the right to transmit them to third parties, with the exception of cases established by the laws of the Republic of Kazakhstan.

Article 68. Rights of the employee for the purpose of ensuring protection of personal data stored by the employer

For the purposes of ensuring protection of personal data stored by the employer, employees shall have the right to:

- 1) free-of-charge access to their personal data, including the right to receive copies of entries contained in the personal data of the employee, with the exception of cases envisaged by the laws of the Republic of Kazakhstan;
- 2) deletion and correction of incorrect or incomplete personal data, as well as data processed in violation of the requirements of this Code;
- 3) demand that the employer notify persons that previously received the incorrect or incomplete personal data of the employee concerning the corrections made therein;
- 4) appeal to a court of law against actions (inaction) on the part of the employer during processing of his personal data.

Chapter 6. INTERNAL LABOUR REGULATIONS. LABOUR DISCIPLINE

Article 69. Internal labour regulations

1. The internal labour regulations shall be approved by the employer on agreement with employees' representatives.
2. The internal labour regulations shall establish the working time and rest time of employees, the conditions for ensuring labour discipline, and other questions of regulating labour relations.
3. For individual categories of employees, the labour regulations shall consist of charters and provisions approved in the manner established by the laws of the Republic of Kazakhstan.
4. The internal labour regulations shall be binding on both the employer and employees.

Article 70. Provision of labour discipline

Labour discipline shall be ensured by the employer creating the requisite organisational and economic conditions for individual and collective labour, for a conscientious attitude on the part of employees

towards their work, persuasion techniques, incentives for conscientious labour, as well as application of disciplinary sanctions for disciplinary offences committed by employees.

Article 71. Labour incentives

1. The employer shall have the right to apply various types of incentive to employees for success in their work.
2. The types of incentive to employees and the procedure for applying them are determined by the legislation of the Republic of Kazakhstan, acts of the employer, the employment contract and collective bargaining agreement.

Article 72. Disciplinary sanctions

1. For a disciplinary offence committed by an employee, the employer shall have the right to apply the following types of disciplinary sanction:
 - 1) admonition;
 - 2) reprimand;
 - 3) strict reprimand;
 - 4) cancellation of the employment contract on the initiative of the employer in cases established by this Code.
2. Application of disciplinary sanctions not envisaged by this Code and other laws of the Republic of Kazakhstan shall be prohibited.

Article 73. Procedure for applying and appealing against disciplinary sanctions

1. Disciplinary sanctions shall be imposed by the employer by issuing an act of the employer.
2. The employer shall demand a written explanation from the employee before applying the disciplinary sanction. Refusal on the part of the employee to provide a written explanation shall not serve as a hindrance to applying a disciplinary sanction. In the event of refusal by the employee to provide the given explanation, a corresponding act shall be drawn up.

3. In determining the type of disciplinary sanction, the employer shall take into account the content, nature and gravity of the disciplinary offence, the circumstances under which it was committed, the prior and subsequent conduct of the employee, and his attitude towards his work.

4. For each disciplinary offence, only a single disciplinary sanction may be imposed on the employee.

5. An act of the employer imposing a disciplinary sanction on the employee may not be issued during a period of:

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

6. An act imposing a disciplinary sanction shall be announced to the employee subject to the disciplinary sanction, against his signature, within a period of three working days of its issue. In the event of refusal by the employee to confirm with his signature that he has been acquainted with the act of the employer, a corresponding entry shall be made to this effect in the act on imposition of the disciplinary sanction.

In the event that it is impossible to acquaint the employee personally with the act of the employer on imposition of the disciplinary sanction, the employer shall send the act to the employee by registered post.

7. A disciplinary sanction might be appealed by the employee in the manner established by this Code.

Article 74. Periods for imposition of disciplinary sanctions

1. A disciplinary sanction shall be imposed on the employee immediately for committing a disciplinary offence, but not later than one month from the date of its discovery, with the exception of the cases envisaged by clause 5, article 73 of this Code and other laws of the Republic of Kazakhstan.

2. A disciplinary sanction may not be applied more than six months from the day on which the disciplinary offence was committed, while in cases established by the laws of the Republic of Kazakhstan or establishment of a disciplinary offence on the basis of the results of an audit or check on the financial and business activities of the employer – more than one year from the date on which the employee committed the disciplinary offence. The given periods shall not include time occupied by criminal proceedings.

3. The period for imposition of a disciplinary sanction shall be suspended while the employee is absent from work in connection with temporary disability, release from work for fulfilment of state or public duties, on leave or a business trip.

Article 75. Term of validity of a disciplinary sanction

1. The term of validity of a disciplinary sanction shall not exceed six months from the day on which it is applied, with the exception of the case envisaged by subclause 4), clause 1, article 72 of this Code. If, within this period, no new disciplinary sanction is imposed on the employee, he shall be deemed not to be subject to disciplinary sanction.

2. An employer that imposes a disciplinary sanction on an employee shall have the right to lift it ahead of time on its own initiative, at the request of the employee or his immediate manager, or application by the employees' representative.

Chapter 7. WORKING TIME

Article 76. Working time

1. Working time may be of normal duration, reduced duration or part-time.

2. Working time also includes preparatory and concluding works (receipt of a work sheet-assignment, materials and tools, study of technical documentation, preparation and clearing of the work place, handing over of finished output, and so on), breaks envisaged by the technology or organisation of the work, the rules of worktime standard setting and labour safety, time of presence or waiting for work at the work place, when the employee does not have free time, official holiday or weekend duty, home duty and other periods determined by the employment contract, the collective bargaining agreement, acts of the employer or regulatory and legal acts of the Republic of Kazakhstan.

Article 77. Normal duration working time

1. Normal duration working time shall not exceed 40 hours a week.

2. Employment contracts and collective bargaining agreements may envisage a shorter duration working time with payment as for normal duration working time.

Article 78. Reduced duration working time for certain categories of employees

1. For employees under the age of eighteen years, a reduced duration working time is established in accordance with article 181 of this Code.

2. For employees engaged in heavy work, work under harmful (particularly harmful) and (or) hazardous working conditions, a reduced duration working time is established in accordance with article 202 of this Code.

3. For group one and two disabled, a reduced duration working time is established in accordance with article 224 of this Code.

4. Employment contracts and collective bargaining agreement may envisage a working time duration shorter than that indicated in clauses 1 – 3 of this article.

5. In the event of a reduced duration working time being established for employees, they shall be paid for their work in accordance with this Code.

Article 79. Part-time work

Part-time work shall consist of working time shorter than the normal duration established by this Code, including:

a part-time working day, that is, a reduction in the standard duration of the working day (work shift); a

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

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

Article 80. Part-time working conditions

1. On agreement between the parties to the employment contract, part-time work may be established for the employee.

2. Part-time work is established for a definite or indefinite period.

3. Part-time working conditions shall not entail any restrictions for the employee with respect to the duration of his annual paid leave as established by this Code, the employment contract, the collective bargaining agreement, or agreements.

Article 81. Types of working week

1. A five-day working week with two days off is established for employees. Under a five-day working week, the duration of the working day (work shift) shall be determined by an act of the employer in

consideration of the specifics of the job and in observance of the established duration of the working week.

2. In organisations where the nature of the production and the working conditions make introduction of a five-day working week unfeasible, a six-day working week shall be established with one day off.
3. A five-day or six-day working week shall be established by the employer in accordance with the terms and conditions of the employment contract and (or) the collective bargaining agreement.

Article 82. Duration of the working day (work shift)

1. Under a five-day working week, the duration of the working day (work shift) shall not exceed 8 hours against a weekly norm of 40 hours, 7 hours 12 minutes against a weekly norm of 36 hours and 5 hours against a weekly norm of 24 hours.
2. Under a six-day working week, the duration of the working day (work shift) shall not exceed 7 hours against a weekly norm of 40 hours, 6 hours against a weekly norm of 36 hours and 4 hours against a weekly norm of 24 hours.
3. The duration of the working week (work shift), the beginning and end of the working day (work shift), and the schedule of breaks from work shall be determined in observance of the established duration of the working week by the internal labour regulations of the organisation, employment contracts and collective bargaining agreements.
4. For creative employees of professional art and cultural leisure organisations, mass median employees, sportsmen and trainers, a different duration of the working week (work shift) may be established in accordance with the labour legislation of the Republic of Kazakhstan, acts of the employer, collective bargaining agreements or employment contracts.

Article 83. Division of the working day (work shift) into parts

1. Division of the working day (work shift) into parts shall be permitted:
 - 1) for jobs involving varying intensity of work;
 - 2) on the initiative of the employee, in connection with his socio-domestic and other personal requirements.
2. In the event of division of the working day (work shift) into parts, the aggregate duration of working time shall not exceed the established duration of the working day (work shift).

3. The types of work for which the working day (work shift) is divided into parts, the number and duration of breaks in the work, as well as the types and amounts of compensation paid to employees for working under such conditions shall be determined by employment contracts and collective bargaining agreements.

Article 84. Shift work

1. Shift work may be established in cases when the duration of the employer's production process or production activity mode exceed the standard duration of the working day.

3. Under shift work, the duration of the work shift and transition from one shift to another shall be established by shift timetables approved by the employer on agreement employees' representatives. The employer shall acquaint employees with the shift timetable at least one month before it comes into effect.

4. It is prohibited for an employee to be engaged to work on two consecutive shifts.

Article 85. Flexi-time

1. For the purpose of combining socio-domestic and personal requirements of employees with the interests of production, flexi-time may be established for the employees.

2. The following shall be established under a flexi-time regime:

1) fixed working time;

2) flexible (variable) working time, during which the employee shall have the right to perform his job duties at his own discretion;

3) accounting period.

3. Under flexi-time, the accounting period shall be the period during which the average duration of working time established for the given category of employees shall be observed.

4. The accounting period under flexi-time shall not be more than one month.

5. The duration of the working day (work shift) and (or) working week may, under a flexi-time regime may be shorter and (or) longer than the standard working day and (or) working week.
6. The duration of the fixed working time, the flexible (variable) working time, and the accounting period under a flexi-time regime shall be established by employment contracts and collective bargaining agreements.

Article 86. Summing of working time

1. Working time is summed in continuously operating production units, workshops and sectors and certain types of work where, by virtue of the production (working) conditions, the duration of the working day or working week set for the given category of employees cannot be observed.
2. The accounting period in recording of cumulative hours worked is taken as the period during which the average duration of the working day and (or) working week established for the given category of employees shall be observed.
3. The accounting period in recording of cumulative hours worked may be any calendar period, but no more than one year or the period for fulfilment of a specific job.
4. In establishing recording of cumulative hours worked, observance of the duration of the employee's rest period between the end of work and the beginning of the next working day (work shift) is mandatory.
5. The work procedure under recording of cumulative hours worked and the category of employees for which recording of cumulative hours worked is established are determined by employment contracts or

collective bargaining agreements or acts of employers in consideration of the opinions of employees' representatives.

6. Application of recording of cumulative hours worked shall not be permitted in the cases envisaged by articles 183, 190 and 225 of this Code.

Article 87. Night work

1. Night work shall be defined as working time between 22:00 hours and 6:00 hours.
2. Employees may be engaged to do night-time work in observance of the restrictions imposed by this Code.

Article 88. Constraints on overtime

1. Overtime work shall not be permitted for:

- 1) pregnant women;
- 2) employees under the age of eighteen years.

2. Employees may be engaged to do overtime work only with their written consent, with the exception of cases envisaged by article 90 of this Code.

Article 89. Overtime limits

1. Overtime work shall not exceed two hours a day per employee or one hour of heavy work or work under harmful (particularly harmful) and (or) hazardous working conditions.

2. The aggregate duration of overtime work shall not exceed one hundred and twenty hours a year.

3. The limit on the aggregate duration of overtime work shall not apply to the cases envisaged by subclause 1), article 90 of this Code.

Article 90. Exceptional cases when overtime work is permitted without the employee's consent

Overtime work without the consent of the employee shall be permitted only in the following cases:

- 1) in performance of work, necessary for defence of the country, as well as for preventing emergencies, natural disasters or industrial accidents and for immediately eliminating their consequences;
- 2) for eliminating other circumstances disrupting normal water, gas, heat and power supplies and the functioning of other vital utilities;
- 3) for continuing work if a shift partner fails to turn up for work if the work cannot be interrupted, immediate measures being taken to find a replacement employee.

Article 91. Procedure for recording working time 1.

The employer shall record the employee's actual working time.

2. Actual working time, including time worked and time not worked by the employee, shall be recorded.

3. Time worked shall be recorded as time actually worked and other periods of time included in working time. Moreover, overtime work, night work, work on days off and official holidays, and business trip days shall be recorded separately.
4. Time not worked shall be recorded as paid and unpaid time, as well as working time lost at the fault of the employee and (or) of the employer.
5. Working time shall be recorded in documents determined by the employer.
6. In cases when the employee's working time includes periods of work performance outside the work place or performance of works that cannot be recorded by the employer as occupying a specific period of time, said periods shall be noted in the working time records as time spent performing a specific volume of the work specified in the employment contract.

Chapter 8. LEISURE TIME

Article 92. Types of leisure time

The types of leisure time are:

- 1) breaks during the working day (work shift) – rest and meal breaks; shift and special breaks;
- 2) daily (inter-shift) rest;
- 3) days off (weekly continuous rest);
- 4) official holidays;
- 5) leave.

Article 93. Rest and meal breaks

1. During the working day (work shift), the employee shall be granted one rest and meal break of at least half an hour.
2. The rest and meal break shall be established at least three hours and no more than four hours after the start of the working day (work shift), with the exception of cases established in clause 3 of this article.

3. The rest and meal break may be established later than four hours after the start of the working day (work shift) under a flexible regime for recording cumulative hours worked with a working day (work shift) of over 8 hours.

4. The time when the rest and meal break is granted and its duration shall be established by the internal labour regulations, the employment contract and the collective bargaining agreement.

5. The time of the rest and meal break shall not be included in working time. In jobs where the production conditions make it impossible to grant a break, the employer shall provide the employee with an opportunity for resting and eating during working time at a specially equipped place. The list of such types of work, the procedure and place for resting and eating shall be established by the collective bargaining agreement or acts of the employer issued on agreement with employees' representatives.

Article 94. Shift and special breaks

1. For certain types of work, employees shall be allowed shift breaks necessitated by the technology and organisation of production and work, which shall be included in working time. These types of work, the duration of and the procedure granting such breaks shall be determined by the collective bargaining agreement or acts of the employer adopted on agreement with employees' representatives.

2. Employees working during a cold period or in the open air or in enclosed, unheated premises, as well as those engaged in loading and unloading work, shall be allowed special warm-up and rest breaks, which shall be included in working time. The employer shall provide for equipment of warm-up and rest premises for the employees.

3. Working women with children up to the age of 18 months shall be granted, in addition to the rest and meal break, additional breaks for feeding the child, in accordance with article 188 of this Code.

Article 95. Duration of daily rest (inter-shift) time

The duration of daily (inter-shift) rest of the employee between the end of work and its start on the next day (work shift) shall be at least twelve hours.

Article 96. Days off

1. Employees shall be granted days off every week.

2. With a five-day working week, employees shall be granted two days off per week, while with a six-day working week, they shall have one day off.

3. Sunday shall be a day off common to both a five-day and a six-day working week. The second day off with a five-day working week shall be established by an act of the employer or the shift timetable. Both days off shall be consecutive, unless otherwise established in the collective bargaining agreement and employment contract.

4. The first day of Kurban-ait, celebrated according to the Muslim calendar, and 7 January, the Orthodox Christmas, shall be non-working days.

5. Employees engaged in continuous production or in production units where it is not possible to halt work on days off for production and technical reasons or as a consequence of need for constant, continuous provision of services to the population, days off shall be granted on different days of the week in turn to employees (groups of employees) according to a shift timetable approved by acts of the employer issued on agreement with employees' representatives.

6. An employee on a business trip shall enjoy days off in accordance with labour regulations of the employer to which he has been sent.

Article 97. Work on days off and official holidays

1. Work on days off and official holidays on the initiative of the employer shall be permitted with the written consent of the employee, with the exception of cases envisaged by article 98 of this Code.

2. Work on days off and official holidays shall be permitted on the initiative of the employee on the basis of a resolution of the employer.

3. For work on days off and official holidays, at the wish of the employee, another rest day shall be granted or payment made in the amount indicated in article 128 of this Code.

Article 98. Exceptional cases of engagement to work on days off and official holidays without the consent of the employee

Engagement to work on days off and official holidays without consent of the employee shall be permitted in the following cases:

1) for prevention of emergencies, natural disasters or industrial accidents or for rapid elimination of their consequences;

2) for prevention and investigation of accidents, destruction of or damage to property;

3) for fulfilment of urgent, unforeseen work required for continued normal operation of the organisation as a whole or of its individual subdivisions.

Article 99. Documentation of engagement of employees to work on days off and official holidays

Engagement of employees to work on days off and official holidays shall be documented by an act of the employer.

Article 100. Types of leave

1. Employees shall be granted the following types of leave:

- 1) annual paid leave;
- 2) social leave.

2. Paid annual leave is intended for the employee to rest, restore his working capacity, strengthen his health and fulfil other personal requirements and is granted for a specific number of calendar days with retention of the employee's job (position) and average wage.

3. Social leave is understood as release of the employee from work for a specific period of time for the purpose of creating favourable conditions for maternity, childcare, education while working and for other social purposes.

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

- 1) unpaid leave;
- 2) study leave;
- 3) maternity leave and leave for adoption of a newborn (or newborns).

Article 101. Duration of annual paid leave

Employees shall be granted annual paid leave of twenty four calendar days, unless a greater number of days is envisaged by other regulatory and legal acts, the employment contract, collective bargaining agreement or acts of the employer.

Article 102. Additional annual paid leave

1. Additional annual paid leave shall be granted:

- 1) to employees engaged in heavy work, work under harmful (particularly harmful) and (or) hazardous working conditions, the duration of which shall be at least six calendar days;
- 2) group one and two disabled, with a duration of at least fifteen calendar days.

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

3. Employment contracts and collective bargaining agreements may establish for employees additional annual paid leave of an incentive nature for long, continuous work service, performance of important, complex and urgent work, as well as work of another nature.

Article 103. Calculation of the duration of annual paid leave

1. The duration of annual paid leave shall be calculated in calendar days, not counting official holidays falling during the leave period, irrespective of the work regime and timetable.
2. In calculating the total duration of annual paid leave, additional annual paid leave shall be added to the basic annual paid leave. The total duration of annual paid leave shall not, moreover, be restricted by any maximum limit.

Article 104. Calculation of service record giving entitlement to annual paid leave

The service record giving entitlement to annual paid leave shall include:

- 1) actual time worked;
- 2) time during which the employee has not actually worked, but his job (position) and wage have been reserved for him in whole or in part;
- 3) time during which the employee has not actually worked in connection with temporary disability;
- 4) time during which the employee has not actually worked before being reinstated in his job.

Article 105. Procedure for granting annual paid leave

1. Annual paid leave shall be granted to the employee for the first and subsequent years of work at any time of the working year, on agreement between the parties.
2. The specifics of provision of annual paid leave to employees working by the rotational methods are established by article 213 of this Code.
3. On agreement between employee and the employer, annual paid leave may be divided into parts.
4. Annual paid leave shall be carried over, extended and cut short in the cases and the manner established in articles 108 and 109 of this Code, in observance of the requirements of clause 3, article 108 of this Code.
5. Payment for annual paid leave shall be made at least three calendar days before the start of the

leave. Article 106. Determination of the period for granting annual paid leave

The working year consists of the twelve months running from the employee's first day on the job.

Article 107. Sequence for granting annual paid leave

1. The sequence for granting annual paid leave to employees is determined by the employment contract, the collective bargaining agreement, and the leave timetable approved by the employer in consideration of the opinions of the employees.
2. In the event of amendment to the leave timetable in connection with production needs, the employer shall notify the employee to this effect at least two weeks before the start of the leave.

Article 108. Cases of and the procedure for carrying over or prolonging annual paid leave

1. Annual paid leave may be carried over or prolonged, in full or in part, in cases

of: temporary disability of the employee, maternity leave:

fulfilment by the employee of state duties during the period of annual paid leave, if release from work is envisaged by law.

2. Annual paid leave (or part thereof) may be prolonged or carried over only with the written consent of the employee or at his request. Annual paid leave carried over may be added to the leave for the subsequent year or granted separately, at any time, at the request of the employee.

3. It is prohibited not to grant annual paid leave for two consecutive years.

Article 109. Recall from annual paid leave

1. Annual paid leave may be cut short by the employer only with the written consent of the employee. Rejection by the employee of the employer's proposal shall not constitute a violation of labour discipline.
2. The part of annual paid leave unused by virtue of the employee being recalled shall, by agreement between the parties to the employment contract, be granted during the current or next working year, at any time, or be added to the annual paid leave for the subsequent working year.
3. In the event that an employee is recalled from annual paid leave, instead of granting of the unused part of the leave at another time, on agreement between the employee and the employer, the employee may be compensated financially for the days of the unused part of the annual paid leave.
4. It shall not be permitted to recall from annual paid leave an employee under the age of eighteen years, pregnant women or employees engaged in heavy work or work under harmful (particularly harmful) or hazardous working conditions.

Article 110. Financial compensation for unused annual paid leave on termination of the employment contract

On termination of an employment contract, an employee who has not taken or taken in full the annual paid leave due shall receive financial compensation for the unused days of annual paid leave.

Article 111. Unpaid leave

1. On agreement between the parties to the employment contract and on the basis of an application from the employee, he may be granted unpaid leave.
2. The duration of the unpaid leave shall be determined by agreement between the employee and the employer.
3. On the basis of a written application from the employee, the employer shall provide unpaid leave of up to five calendar days for:
 - 1) registration of marriage;
 - 2) birth of a child;

3) death of a close relative;

4) in other cases envisaged by the employment contract or collective bargaining agreement. Article 112. Study leave

1. Employees studying at educational institutions shall be granted study leave for preparing for and taking tests and examinations, carrying out laboratory work, preparing and defending diploma work (project).

2. Payment for study leave shall be determined by the employment contract, the collective bargaining agreement, and the study agreement.

Article 113. Maternity leave and leave on adoption of a newborn (or newborns)

1. Pregnant women, women who have given birth, women (men) who have adopted a newborn (or newborns) shall be granted the following types of maternity leave:

1) ante-natal and post-natal leave;

2) paid leave to employees adopting a newborn (or newborns);

3) unpaid childcare leave until the child reaches the age of three years.

2. Maternity leave and leave for adoption of a newborn (or newborns) shall be granted on the conditions envisaged by articles 192 – 195 of this Code.

3. The procedure for calculating the average wage for payment of maternity leave and leave for adoption of a newborn (or newborns) shall be determined in accordance with article 136 of this Code.

Article 114. Formalisation of leave

Granting, carrying over and prolongation of leave or recall from leave shall be documented by an act of the employer.

Chapter 9. LABOUR RATE SETTING

Article 115. State guarantees in the sphere of organising worktime standard setting

State guarantees in the sphere of organising worktime standard setting

include: standard rates and worktime standards;

provision by state authorities for elaboration of technically justified standard rates and worktime standards;

control over provision by employers for elaboration, introduction and revision worktime standards.

Article 116. Labour rates

1. Labour rates (output, time, servicing) constitute a measure of the expenditure of labour and are established for the employee with corresponding qualifications in accordance with the level achieved of equipment, technology, organisation of production and of labour.

2. Output rates for employees under the age of eighteen years are established in accordance with article 182 of this Code.

3. Under piece rates, certain categories of employees may have rated assignments set for them. For fulfilment of individual functions and volumes of the work, the employer may set servicing rates or rates (standards) for the number of employees.

Article 117. Elaboration, introduction of new and replacement and revision of existing worktime standards

1. Elaboration, introduction of new, replacement and revision or existing worktime standards shall be carried out by the employer on agreement with employees' representatives in consideration of the model worktime standards and rates.

2. Model worktime standards and rates shall be approved by competent state authorities in the relevant spheres of activity on agreement with the state labour authority in the manner established thereby.

3. Replacement and revision of model worktime standards and rates shall be carried out by the authorities that approved them in the manner established by the state labour authority.

4. Labour rates shall be subject to mandatory replacement in conjunction with certification and rationalisation of the work place, introduction of new equipment, technology and organisational-technical measures providing for higher productivity of labour.

Attainment of a high level of output of goods (production of services) by individual employees by applying, on their own initiative, new working methods and way of improving work places shall not constitute grounds for reviewing previously established worktime standards.

5. The employees shall be notified at least one month before the employer introduces new worktime standards.

Article 118. Requirements on elaboration of worktime standards

Elaboration of worktime standards shall ensure:

- 1) the quality of the worktime standards, their optimal coincidence with the necessary labour inputs;
- 2) establishment of unified worktime standards for one and the same work performed under analogous organisational-technical conditions;
- 3) the progressive nature of worktime standards on the basis of scientific and technical achievements;
- 4) coverage by worktime standard setting of all types of the work for which it is both possible and feasible to establish worktime standards;
- 5) the technical (scientific) justification of the worktime standards.

Article 119. Specifics of the regulation of worktime standard setting

The procedure for presenting, considering and agreeing worktime standards in an organisation the services (goods, work) of which are encompassed by state regulation of tariffs (prices, charges) shall be established by the state labour authority.

Chapter 10. LABOUR COMPENSATION

Article 120. State guarantees in the sphere of labour compensation

State guarantees in the sphere of labour compensation of employees include:

minimum monthly wage;

minimum hourly wage determined in accordance with article 122 of this Code;

minimum standards for labour compensation;

payment for overtime work;

payment for work on public holidays and days off;

payment for night work;

restriction on withholdings from employee wages;

state control over full and timely payment of wages and implementation of state guarantees in the sphere of labour compensation;

the procedure and time schedule for payment of wages.

Article 121. The amount of the wage

1. The monthly wage of the employee shall be set differentially depending on the qualifications of the employee, the complexity, amount and quality of work performed, as well as the working conditions.
2. The monthly wage of an employee that has worked the full standard working time for the given period and has fulfilled the worktime standards (job duties) shall not be lower than the level established by the law of the Republic of Kazakhstan as the minimum monthly wage.

Article 122. Establishment of the minimum wage

1. The minimum monthly wage established annually by the law of the Republic of Kazakhstan on the republican budget for the corresponding financial year shall not be less than the subsistence level and shall not include additions and mark-ups, compensatory and social allowances, bonuses or other incentive payments and shall be paid in proportion to the time worked.
2. The minimum standard labour compensation shall be determined on the basis of the minimum monthly wage established by the law of the Republic of Kazakhstan on the republican budget for the corresponding year, and branch multipliers determined by branch agreements and approved by the Government of the Republic of Kazakhstan.
3. The minimum hourly wage of an employee fulfilling his job duties (work time standards), may not be less than the minimum monthly wage divided by the average number of working hours in the month according to the working time balance for the corresponding calendar year.
4. The minimum monthly wage or monthly base rate of a first rank employee envisaged by the terms and conditions of the employment contract, collective bargaining agreement and (or) acts of the employer, may not be less than the minimum monthly wage established by the law of the Republic of

Kazakhstan on the republican budget for the corresponding financial year, while for employees engaged in heavy work or work under harmful (particularly harmful) or hazardous working conditions, it shall not be less than the minimum standard labour compensation.

Article 123. Hourly labour compensation

The terms and conditions of the employment contract, collective bargaining agreement and (or) act of the employer may establish an hourly labour compensation for work actually performed during a shortened working day or less than full loading, as well as for payment for work of a temporary or one-time nature.

Article 124. Wage indexation

A wage rise shall include wage indexation carried out by the employer in the manner established by agreements, the collective bargaining agreement or act of the employer, proceeding from the level of inflation determined for the corresponding period by regulatory and legal acts of the Republic of Kazakhstan.

Article 125. Organisation of labour compensation

1. The qualification requirements on employees and the complexity of certain types of work shall be determined on the basis of the Unified Tariff and Qualification Manual of work and professions of employees, rate and qualification characteristics of employee professions, the Qualifications Manual of jobs of managers, specialists and other officials, as well as model qualification characteristics of jobs of managers, specialists and other officials of organisations.
2. Inclusion of work performed in work of a specific complexity and awarding of qualification ranks and categories to employees shall be performed in accordance with the Unified Tariff and Qualification Manual of work and professions of employees, rate and qualification characteristics of employee professions, the Qualifications Manual of jobs of managers, specialists and other officials, as well as model qualification characteristics of jobs of managers, specialists and other officials of organisations.
3. Elaboration, review, appraisal, and approval of and the procedure for applying the manuals and rate and qualification characteristics of employee professions indicated in clause 1 of this article shall be determined by the state labour authority. Model qualification characteristics of jobs of managers, specialists and other officials of organisations engaging in various types of economic activity shall be elaborated and approved by competent state authorities in corresponding spheres of activity on agreement with the state labour authority.

Article 126. Systems of labour compensation

1. Payment for the labour of employees shall be made according to a time, piece-rate or other system of labour compensation. Payment may be made on the basis of individual and (or) collective labour results.

The system of labour compensation may be formed on the basis of a rate, non-rate or mixed system.

A rate system of labour compensation includes: a base rate (set wage), wage scale, rate coefficients.

A non-rate system of labour compensation is based on proportional distribution of the funds intended for payment of labour, depending on criteria and principles for assessing the professional qualities of employees and their contribution to the final result.

A mixed system of labour compensation may contain elements of both a rate and a non-rate system of labour compensation.

2. To raise the employees' interest in greater production efficiency and better quality of the work performed, the employer may introduce bonus systems and other forms of labour incentive.

3. The system of labour compensation and incentives for employees shall be determined by the terms and conditions of the collective bargaining agreement, the employment contract and (or) acts of the employer.

4. The system of labour compensation shall provide for the basic wage (relatively constant part of the wage) to constitute at least 75 per cent of the average monthly wage of employees, excluding one-time incentive payments.

5. The system of labour compensation of employees of organisations maintained out of the state budget and the budget of the National Bank of the Republic of Kazakhstan shall be established by regulatory and legal acts of the Republic of Kazakhstan.

6. The conditions of labour compensation and bonus payments of management personnel of national companies and joint-stock companies in which the controlling blocks of shares belong to the state shall be determined on the basis of the Model Regulations approved by the Government of the Republic of Kazakhstan.

7. The procedure for consideration and agreement of the parameters of the system of labour compensation of employees in organisations whose services (goods, work) are encompassed by state regulation of tariffs (prices, charges) shall be determined by the state labour authority.

8. The terms for labour compensation set in the employment contract, the collective bargaining agreement, other agreements and acts of the employer shall not be worse than those established by this Code and other regulatory and legal acts of the Republic of Kazakhstan.

Article 127. Overtime payment

In the event of time-based labour compensation, the payment for overtime work shall be at a rate of at least 150 per cent. In the event of piece-rate labour compensation, the mark-up for overtime shall be at least fifty per cent of the wage rate established for the employee.

Article 128. Payment for work on public holidays and days off

Payment for work on public holidays and days off shall be at a rate of at least 200 per cent proceeding from the daily (hourly) rate of the employee.

Article 129. Payment for night work

Each hour of work during the night shall be paid at a rate of at least 150 per cent proceeding from the daily (hourly) rate of the employee.

Article 130. Labour compensation for performance of work of different qualifications

Labour compensation for performance by the employee of work of different qualification shall be made as for the higher qualified work.

In cases when, in consideration of the nature of production, a more highly qualified employee is entrusted with performing work paid at a rate lower than his rank, the labour compensation shall be made according to his qualifications (rank).

Article 131. Labour compensation for job combining (expansion of the service zone) and performance of the duties of a temporarily absent employee

1. Employees fulfilling, within one and the same organisation, alongside their main job as per the employment contract, additional work in another position or the duties of a temporarily absent employee without being released from their main jobs, shall receive additional payment.
2. The amount of the mark-up from job combining (expansion of the service zone) or performance of the duties of a temporarily absent employee shall be set by the employer on agreement with the employee.

Article 132. Labour compensation for mastering new spheres of production(products)

Collective bargaining agreements and (or) employment contracts may envisage an employee retaining his previous wage during the period required for mastering new spheres of production (products).

Article 133. Idle time payment

1. The procedure and conditions for payment for idle time caused by the employer shall be determined by employment contracts and collective bargaining agreements and shall be established in an amount equal to at least fifty per cent of the employee's average wage.
2. Idle time at the fault of the employee shall not be subject to payment. Article

134. Procedure and schedule for wage payment

1. Wages shall be paid in monetary form in the national currency of the Republic of Kazakhstan at least once a month, no later than the 10th day of the following month. The date for payment of wages shall be envisaged by employment contracts and collective bargaining agreements.
2. On payment of wages, the employer shall notify each employee, every month, in writing of the component parts of the wage due him for the corresponding period, the amount of and grounds for withholdings made, including information about mandatory pension contributions withheld and remitted, as well as about the aggregate monetary sum due for payment.
3. If the day for payment of wages falls on a day off or public holiday, payment shall be made on the day before.
4. In the event of delayed payment, at the fault of the employer, of wages and other payments connected with termination of the employment contract with the employee, the employer shall pay to the employee the debt and default interest. The amount of the default interest shall be calculated proceeding from the refinancing rate of the National Bank of the Republic of Kazakhstan on the day on which the obligations to pay the wage are fulfilled and shall accrue for each

calendar day of delay, beginning from the day following that on which the payments are due and ending on the day of payment.

5. On termination of an employment contract, payment of the sums due to the employee by the employer shall be made within three working days of its termination.

Article 135. Place of wage payment

Wage payments to employees shall be made at the place where they work, unless the terms and conditions of the employment contract or the collective bargaining agreement envisage otherwise.

Article 136. Calculation of the average wage of the employee

1. Calculation of the average wage for both a five-day and a six-day working week shall be made on the basis of time actually worked, proceeding from the average daily (hourly) wage for the corresponding period and in consideration of established additional payment, mark-ups, bonuses and other incentive payments that are regular in nature and envisaged by the labour compensation system.
2. The calculation period for calculating the average wage shall be the twelve calendar months preceding the event with which the corresponding payment is connected in agreement with this Code. For employees that have been working for fewer than twelve calendar months, the average wage shall be determined for the time actually worked.
3. For all cases of determination of the average wage envisaged by this Code, the Government of the Republic of Kazakhstan establishes a unified calculation procedure.
4. The collective bargaining agreement may envisage other periods for calculation of the average wage, provided they are not to the detriment of the employees' position.

Article 137. Withholdings from wages

1. Withholdings from the wages of an employee shall be made by court ruling, as well as in cases envisaged by the laws of the Republic of Kazakhstan.
2. Withholdings from the wages of an employee for the purpose of redeeming his debt towards the organisations for which he works may also be made on the basis of an act of the employer, given the written consent of the employee.
3. The total amount of monthly withholdings shall not exceed fifty per cent of the wage due the employee.

Article 138. Payment of a wage not received owing to death of the employee

A wage not received owing to death of an employee shall be paid out in the manner established by the civil legislation of the Republic of Kazakhstan.

Chapter 11. OCCUPATIONAL TRAINING, RE-TRAINING AND FURTHER TRAINING

Article 139. Concepts used in this chapter

In this chapter, the following concepts are used:

- 1) study agreement – written agreement between the employer and student on the conditions for occupational training, re-training and further training;
- 2) occupational training – a form of occupational training intended for developing the individual for the purpose of acquiring new or changing the professional skills required for performing a specific type of work;
- 3) re-training – a form of occupational training allowing a new profession or specialisation to be mastered;
- 4) further training – a form of occupational training allowing previously acquired professional knowledge, abilities and skills to be maintained, extended, enriched and improved.

Article 140. Rights and obligations of the employer with respect to training, re-training and further training

1. The need for and scope of occupational training, re-training and further training for the functioning and development of the organisation shall be determined by the employer.
2. The employer shall undertake occupational training, re-training and further training of employees or other persons with which it does not maintain labour relations (hereinafter referred to as the students):
 - 1) directly within the organisation;
 - 2) in educational institutions implementing primary, secondary, higher and post-graduate occupational training study programmes.
3. The employer shall create the conditions for employees undergoing occupational training, re-training or to combine work with study as envisaged by this Code, agreements, collective bargaining agreements and employment contracts.

Article 141. Referral by the employer for occupational training, re-training and further training in educational institutions

1. Occupational training, re-training and further training of students referred by the employer to educational institutions shall be at the employer's expense or be financed by other means not prohibited by the legislation of the Republic of Kazakhstan, in accordance with a study agreement.
2. The agreement, the collective bargaining agreement and (or) the employment contract may envisage study-related benefits and compensation payments.

Article 142. Occupational training, re-training and further training of employees within the organisation

1. Occupational training, re-training and further training of employees within the organisation shall be carried out by the employer.
2. The forms of occupational training, re-training and further training of personnel shall be determined by the employer.
3. The general requirements on occupational training, re-training and further training of personnel within the organisation shall be determined by the Government of the Republic of Kazakhstan.

Article 143. Rights and obligations of employees with respect to occupational training, re-training and further training

1. Employees shall have the right to occupational training, re-training and further training, including training in new professions and specialisations.
2. Employees undergoing occupational training, re-training and further training may, by agreement with the employer, be released from work or permitted to work on a part-time basis.
3. Employees undergoing occupational training, re-training and further training shall enjoy the guarantees envisaged by this Code, collective bargaining agreements and employment contracts.
4. On completion of the occupational training, re-training and further training, the student shall work for the employer for a period of time agreed between the parties in the study agreement.
5. In the event of cancellation of the employment contract before expiry of the term established by the study agreement on the initiative of the employee or on the initiative of the employer at the fault of

the employee, the employee shall reimburse the employer for the costs of his training in proportion to the unworked part of the set term.

Article 144. Contents of the study agreement

1. The study agreement shall contain:

- 1) indication of the specific profession or qualification acquired by the student;
- 2) rights and obligations of the employer and the student;
- 3) the period of study and the period to be worked for the employer after completion of the training;
- 4) study-related guarantees and compensation payments;
- 5) responsibilities of the parties.

2. The study agreement may contain other terms and conditions determined on agreement between the parties.

Chapter 12. JOB PLACEMENT

Article 145. State guarantees of job placement

The state guarantees its citizens, in the sphere of population employment:

- 1) protection against any forms of discrimination and provision of equal opportunities to gain a profession and a job;
- 2) occupational training, re-training and further training and organisation of public work for the unemployed;
- 3) assistance in developing small business and enterprise;
- 4) organisation of employment agency work through the state employment authority and private employment agencies;
- 5) provision of professionally-orientated services and information on free positions and vacancies;
- 6) orientation of the occupational training system on training specialists in demand on the labour market;

- 7) inter-regional distribution of the work force in accordance with state programmes;
- 8) development and implementation of measures to disclose and legalise labour relations;
- 9) establishment in investment contracts of duties of investors to provide occupational training, create new and maintain existing jobs;
- 10) creation of the conditions for development of occupational training, re-training and further training directly within the organisation;
- 11) interaction between authorised bodies and employers on employment matters;
- 12) provision of the conditions for job placement of persons belonging to target groups. Article 146. Rights of citizens in the sphere of job placement The citizen shall have the right to:

- 1) free choice of type of activity and profession by applying directly to employers, as well as through labour mediation by the state employment authority or a private employment agency assisting in job placement of the population;
- 2) independent search for work and job placement, including abroad;
- 3) receipt of advice and information from state employment authorities and private employment agencies;
- 4) participation in public work.

Article 147. Rights and obligations of the employer with respect to job placement

1. The employer shall have the right:

- 1) to select personnel;
- 2) to receive, from state employment authorities, reliable, full and up-to-date information on the state of the labour market and occupational training opportunities.

2. The employer shall provide the state employment authority with information:

about impending release of employees in connection with liquidation of the organisation, a reduction in staff numbers or positions at least one month in advance;

about employee hiring requirements and the results of interviews with citizens referred by the state employment authority, within a period of five working days.

Article 148. Labour mediation

Labour mediation is practised by the state employment authority or a private employment agency by:

- 1) informing citizens of opportunities for obtaining work and employers of the possibility of providing manpower;
- 2) assisting citizens in selecting jobs;
- 3) referring citizens for job placement to an employer with a vacancy;
- 4) forming databases on the labour market;
- 5) recording and registering applicants;
- 6) providing professional orientation services;
- 7) interacting with employers on job placement on the basis of agreements.

Chapter 13. GUARANTEES AND COMPENSATION PAYMENTS

Article 149. Guarantees during fulfilment by employees of state or public duties

1. The employer shall release employees from fulfilment of their job duties for the period during which they are called up to fulfil state or public duties in cases envisaged by the laws of the Republic of Kazakhstan and shall keep their jobs (positions) open for them.
2. For performance of state and public duties, the employee's wage shall be paid at the place where said duties are performed, and at a rate no lower than the average wage at his main place of work.
3. An employee that has done his national service shall enjoy preemptive rights to be hired to work at the same enterprise that he worked in when conscripted for military service.

Article 150. Guarantees for employees referred for medical examination

During periodical medical examinations at the employer's expense, the jobs (positions) and average wages of employees required to undergo said examinations in accordance with this Code or the collective bargaining agreement shall be retained for them.

Article 151. Guarantees for employee blood donors

During examination and giving of blood, the jobs (positions) and average wages of blood donor employees shall be retained for them.

Article 152. Guarantees and compensation payments for employees sent on business trips

1. The jobs (positions) and average wages of employees shall be retained for them during business trips.

2. Employees sent on business trips shall be paid:

- 1) per diem for calendar days spent on the business trip, including travel time;
- 2) travel expenses to and from the required location;
- 3) accommodation expenses.

3. The terms and conditions for and schedule for sending employees on business trips shall be determined by employment contracts, collective bargaining agreements or acts of the employer.

4. Employees shall be sent on business trips in consideration of the restrictions envisaged by articles 183, 187 and 226 of this Code.

Article 153. Guarantees and compensation payments on
transfer of the employee to a different location
together with the employer

1. On transfer of an employee to work at a different location together with the employer, the employer shall reimburse the following costs incurred by the employee:

- 1) travel costs of the employee and the members of his family;
- 2) transportation of the personal property of the employee and the members of his family.

2. The procedure for and sizes of the compensation payments envisaged by clause 1 of this article shall be determined by employment contracts, collective bargaining agreements or acts of the employer.

Article 154. Guarantees for employees working in environmental disaster and radiation risk zones

Guarantees for employees working in environmental disaster and radiation risk zones are established by the laws of the Republic of Kazakhstan.

Article 155. Compensation payments in connection with use by the employee of his personal property in the interests of the employer

When an employee uses his personal property in the interests of the employer and with its consent, the employer shall make compensation payments for use, wear and tear (depreciation) of tools, personal transport, other technical means and their operating costs by agreement between the parties.

Article 156. Compensation payments to employees in cases when their work is performed en route or is a travelling job or involves official trips within the bounds of sectors serviced

1. When the work of employees is performed en route or is a travelling job or involves official trips within the bounds of sectors serviced, compensation payments shall be made for every day spent away from the permanent place of residence in the manner established by agreements, collective bargaining agreements, employment contracts and (or) acts of the employer.

2. In the event that employees are not travelling every day of the month, the payment shall be made in proportion to the actual number of days spent travelling to and from the place of work (performance of the work).

3. Compensation payments shall be made irrespective of the work and rest regime.

4. Compensation payments shall not be taken into consideration in calculating the average wages of employees of organisations.

Article 157. Compensation payments in connection with loss of work

1. The employer shall make compensation payments in connection with loss of work in the amount of the average monthly wage in the following cases:

- 1) on cancellation of the employment contract on the initiative of the employer in the event of liquidation of a legal entity employer or termination of the activities of an individual employer;
- 2) on cancellation of the employment contract on the initiative of the employer in the event of reduction of staff numbers or positions.

2. The employer shall make the compensation payment to the employee in connection with loss of work in the amount of three times the average monthly wage in the event of cancellation of the employment contract on the initiative of the employee if the employer supplied incorrect information about the working conditions when the employment contract was concluded or the employer violates the labour legislation of the Republic of Kazakhstan, of the terms and conditions of the employment contract or the collective bargaining agreement.

3. Employment contracts and collective bargaining agreements might envisage higher compensation payments in connection with loss of work.

Article 158. Procedure and conditions for payments of field provisions

1. Field provisions shall be paid for employees of geological survey, topographical-geodesic, and survey organisations when working under field conditions:

- 1) away from their permanent place of residence and not commuting on a daily basis to their permanent place of residence;
- 2) away from their permanent place of residence but commuting on a daily basis to the field organisation base, which does not constitute a permanent place of residence either;
- 3) away from their permanent place of residence on a rotational work basis.

2. Payment of field provisions shall be made for all calendar days spent performing field work.

3. Field provisions shall not be paid to employees during annual paid leave.

4. When the employee leaves the field organisation on a business trip, payment for field provisions shall be halted, while business trip expenses will be reimbursed in accordance with this Code.

5. The amount of field provisions shall not be included in calculation of the average wages of employees of organisations.

6. The payment procedure and conditions and the amount of field provisions and recording of time worked under field conditions shall be established in agreements, collective bargaining agreements and employment contracts and shall be approved by acts of the employer.

7. During work under field conditions, payment of field provisions to the employee for days off shall be made depending on the place where said days are spent (at the facility, on the field work site, at the field organisation base, outside the work place). The given procedure may be applied irrespective of the applied forms of labour organisation and work and rest regime.

Article 159. Payment to employees of social allowances at the expense of the employer

1. The employer shall pay employees temporary disability allowances, maternity allowances and allowances for women (men) adopting newborns out of its won funds.

2. The grounds for payment of social allowances for temporary disability consist of disability certificates issued in the manner established by the legislation of the Republic of Kazakhstan.

3. Social allowances for temporary disability shall be paid to employees from the first day of disability until the day on which their working capacity is restored or until permanent disability is established on the basis of their average wage, calculated in accordance with the legislation of the Republic of Kazakhstan.

4. The amount of the social allowance, the procedure for granting and paying it shall be determined by the Government of the Republic of Kazakhstan. Employers shall have the right to establish supplementary payments to employees to the social allowances established by the legislation of the Republic of Kazakhstan.

Chapter 14. MATERIAL LIABILITY OF THE PARTIES TO THE EMPLOYMENT CONTRACT

Article 160. Obligation of a party to the employment contract to reimburse for damage (harm) caused

1. A party to an employment contract that inflicts damage (harm) on the other party shall recompense the latter in accordance with this Code and other laws of the Republic of Kazakhstan.

2. Employment contracts and collective bargaining agreements might specify the responsibilities of the employee and of the employer.

3. Termination of an employment contract after infliction of damage (harm) does not release a party to the employment contract from material liability for recompensing the other party for damage (harm) caused.

Article 161. Conditions for material liability of a party to an employment contract for inflicting damage (harm)

1. Material liability of a party to an employment contract for damage (harm) inflicted thereby on the other party to the employment contract shall be imposed for damage (harm) caused as a result of culpable, unlawful conduct (actions or inaction) and a cause and effect link between the culpable, unlawful conduct and the damage (harm) inflicted, unless this Code and other laws of the Republic of Kazakhstan envisage otherwise.

2. The employer shall bear material liability towards the employee:

- 1) for damage inflicted by unlawful deprivation of the employee of the possibility of working at his work place;
- 2) for damage inflicted on property of the employee;
- 3) for harm inflicted on the life and (or) health of the employee.

3. The employee shall bear material liability towards the employer:

- 1) for damage inflicted by loss of or damage to the property of the employer;
- 2) for damage arising as a result of actions (inaction) on the part of the employee.

4. The employer and the employee shall bear mutual material liability in other cases established by collective bargaining agreements and employment contracts.

Article 162. Material liability of the employer for damage inflicted on the employee by unlawful deprivation of his opportunity to work

1. The employer shall recompense the employee for wages and other payments due thereto and not received thereby in the event of unlawful transfer to another job, shut-out of the employee from the

work place, unilateral amendment of the terms and conditions of the employment contract, suspension from work, or unjustified cancellation of the employment contract.

2. Employment contracts, collective bargaining agreements and acts of the employer agreed with employees' representatives may establish additional cases of reimbursement by the employer for damage caused by unlawful deprivation of the employee of the opportunity to work.

Article 163. Material liability of the employer for damage inflicted on the property of the employee

An employer causing damage to the property of an employee shall reimburse the latter in full in accordance with the terms and conditions of the employment contracts and the collective bargaining agreement.

Article 164. Material liability of the employer for harm inflicted on the life and health of the employee (or)

1. In the event of harm being inflicted on the life and (or) health of the employee in connection with fulfilment thereby of his job duties, the employer shall make recompense for the harm in the volume envisaged by the civil legislation of the Republic of Kazakhstan.

2. Harm envisaged by clause 1 of this article shall be reimbursed in full provided the employee receives no insurance indemnity. If insurance indemnity is paid out, the employer shall reimburse the employee the difference between the insurance sum and the actual scale of the harm caused.

3. The procedure for employers to make recompense for harm inflicted on the life and (or) health of employees is determined by the legislation of the Republic of Kazakhstan.

Article 165. Material liability of the employee for causing damage to the employer

1. Material liability of the employee for damage inflicted on the employer shall be imposed in cases and on the scale envisaged by this Code.

2. The employee shall make recompense for direct and real damage inflicted on the employer.

3. Liability of the employee for damage inflicted on the employer shall be excluded if the damage arises as a result of force majeure or extreme necessity, necessary defence or failure by the employer to fulfil its obligations to provide the proper conditions for safekeeping of the property transferred to the employee.

4. It shall not be permitted to impose liability on the employee for damage that might be classed as normal production and business risk.

5. The employer shall create for employees the conditions necessary for normal work and guarantees of full safekeeping of the property entrusted thereto.

6. Direct and real damage shall be understood as a real reduction in the property of the employer or deterioration in the conditions of the given property (including property of third parties kept by the employer, if the employer is liable for the safekeeping of this property), as well as the need for the employer to incur costs and excessive outlays on acquiring or restoring the property.

Article 166. Limits to the material liability of the employee

The employee shall bear material liability for damage inflicted within the limits of his average monthly wage, unless otherwise envisaged by this Code.

Article 167. Cases of full material liability of the employee for damage inflicted on the employer

Full material liability for damage inflicted on the employer shall be imposed on the employee in the following cases:

- 1) failure to ensure the safekeeping of property and other values transferred to the employee on the basis of a written agreement on acceptance of full material liability;
- 2) failure to ensure the safekeeping of property and other values received by the employee on account on the basis of a separate document;
- 3) infliction of damage under the influence of alcohol, narcotics or toxic substances (their analogues);
- 4) shortages, deliberate destruction or deliberate spoilage of materials, semi-finished goods, items (products), including during their manufacture, as well as tools, measuring instruments, special clothing and other items issued by the employer to the employee for the latter's use;
- 5) infliction of damage by means of unlawful actions on the part of the employee, as confirmed in the manner established by the legislation of the Republic of Kazakhstan.

Article 168. Agreements on full personal and collective (joint and several) material liability

1. An employee occupying a position or performing work connected with storage, processing, sale (release), carriage, application or other use in the production process of property and items handed thereto and the employer shall conclude a written agreement on full personal material liability of the employee for the safekeeping of the property and other items handed thereto.
2. Employees jointly performing work connected with storage, processing, sale (release), carriage, application or other use in the production process of property and items transferred thereto, when it is not possible to distinguish the material liability of each employee for causing damage, and the employer shall conclude a written agreement on full collective (joint and several) material liability of employees for safekeeping of the property and other items handed thereto.
3. Agreements on full personal or collective (joint and several) material liability may be concluded both on conclusion of the employment contract and as a supplement to an employment contract.
4. The list of jobs and work held or performed by employees, with whom agreements may be concluded on full personal and collective (joint and several) material liability for safekeeping of property and other items transferred, to employees, as well as a model agreement on full material liability, shall be approved by the collective bargaining agreement (if applicable) or acts of the employer.

Article 169. Procedure for reimbursement of the parties to an employment contract for damage (harm) inflicted

The party to the employment contract that causes damage (harm) to the other party shall make recompense for it in the amount established by this Code and the laws of the Republic of Kazakhstan, on the basis of a court ruling or voluntarily.

Chapter 15. CONSIDERATION OF INDIVIDUAL LABOUR DISPUTES

Article 170. Bodies for consideration of individual labour disputes

1. Individual labour disputes shall be considered by mediation commission and (or) courts.
2. Individual labour disputes shall be considered by a mediation commission by application from a party to the labour dispute.
3. The parties to the employment contract may, at their own choice, apply for resolution of the individual labour dispute directly by a court of law.

Article 171. Formation of the mediation commission and organisation of its work

1. The mediation commission shall be set up on parity principles, consisting of an equal number of representatives of the employer and of employees.
2. The numerical strength of the mediation commission, the procedure by which it works and the term of the powers of the mediation commission shall be established on agreement between the employer and employees at a general meeting (conference) of employees.
3. The members of the mediation commission on the part of the employees shall be elected by a general meeting (conference) of employees. The members of the mediation commission on the part of the employer shall be appointed by an act of the employer. Members of the mediation commission shall, at the first organisational meeting, elect a chairman and secretary from among them by a simple majority of votes.
4. The mediation commission shall consider the labour dispute with a period of seven days from the date on which the application is submitted.
5. On the basis of the results of the consideration, the mediation commission shall adopt a resolution, which shall be issued to the applicant within three days of its adoption.

Article 172. Time limits for applying to the bodies for consideration of individual labour disputes

The following time periods are established for applying to the bodies for consideration of individual labour disputes:

- 1) on disputes for reinstatement in a job – three months from the day on which the copy of the act of the employer on cancellation of the employment contract is served;
- 2) on other labour disputes – one year from the day when the employee or the employer became aware or should have become aware of the violation of their rights.

Article 173. Terms of reference of the mediation commission on labour disputes

The mediation commission is a body for considering labour disputes arising in organisations, with the exception of disputes with respect to which this Code and other laws of the Republic of Kazakhstan establish a different resolution procedure.

A labour dispute shall be considered by the mediation commission if the employee is independently or with the participation of his representative unable to resolve the dispute in direct negotiations with the employer.

Article 174. Procedure for consideration of a labour dispute by the mediation commission

An application received by the mediation commission shall be subject mandatory registration by the given commission.

The mediation commission shall consider the labour dispute within a period of seven calendar days from the day on which the application is submitted.

The dispute shall be considered in the presence of the applicant or his authorised representative. Consideration of the dispute in the absence of the employee or his representative shall be permitted only on the basis of his written application. In the event that the employee or his representative fails to attend the meeting of the given commission, consideration of the labour dispute shall be deferred. In the event of repeat failure by the employee or his representative to attend without good reason, the mediation commission may issue a resolution on withdrawal of the issue from consideration, which does not deprive the employee of the right to submit a second application for consideration of the labour dispute within the time limit established by this Code.

The mediation commission shall have the right to summon witnesses and invite experts to take part in its meeting. At the demand of the commission, the head of the organisation shall submit the requisite document thereto by the set deadline.

A meeting of the mediation commission shall be deemed legally competent provided it is attended by at least half the members representing the employees and at least half the members representing the employer.

At a meeting of the mediation commission, minutes shall be kept and said minutes shall be signed by the chairman or deputy chairman of the commission.

Article 175. Procedure by which the mediation commission adopts a resolution and its content

The mediation commission shall adopt a resolution by a simple majority of the votes of the commission members present at the meeting. At the demand of the applicant or one of the members of the commission, voting may be held in secret.

A resolution of the mediation commission shall indicate:

the name of the organisation (subdivision), full name, position, profession or specialisation of the employee appealing to the commission;

the date of the application to the commission and of consideration of the dispute; the essence of the dispute;

full names of the members of the commission and other persons present at the meeting;

the essence of the resolutions and the grounds for it (with reference to a law or other regulatory and legal act);

results of the voting.

Duly certified copies of the resolution of the mediation commission shall be provided to the employee and to the head of the organisation within a period of three days of the resolution being adopted.

Article 176. Fulfilment of resolutions of the mediation commission

A resolution of the mediation commission shall be subject to fulfilment by the deadline set thereby.

In the event of non-fulfilment of a resolution of the commission by the set deadline, the employee or the employer shall have the right to have the labour dispute resolution enforced through a court of law.

Article 177. Reinstatement of an employee in his job by the authority for consideration of an individual labour dispute

1. In the event of termination of the employment contract without lawful grounds or unlawful transfer to other work, transfer to another work place, change of working conditions, or suspension from work, the body considering the individual labour dispute shall issue a resolution to reinstate the employee in his previous job, with the exception of the cases indicated in clause 3 of this article.

2. An employee reinstated in his previous job shall be paid his average wage for the entire period of enforced absence (suspension from work) or the wage difference for time spent performing lower-paid work, but for a maximum of six months.

3. At the request of the employee, the body considering the individual labour dispute may confine itself to adopting a resolution on payment to the employee of wages in the amount indicated in clause 2 of this article.

4. A resolution of the body for considering an individual labour dispute on reinstatement of the employee in his previous job shall be subject immediate execution. In the event of a delay by the employer in fulfilling the resolution on job reinstatement, the body for consideration of an

individual labour dispute shall adopt a resolution on payment to the employee of his average wage or the difference in wages for the period of delay in execution of the resolution.

SECTION 3. SPECIFICS OF REGULATION OF THE LABOUR OF CERTAIN CATEGORIES OF WORKERS

Chapter 16. SPECIFICS OF REGULATION OF THE LABOUR OF EMPLOYEES UNDER THE AGE OF EIGHTEEN YEARS

Article 178. Rights of employees under the age of eighteen years in the sphere of labour

Employees under the age of eighteen years enjoy equal rights in labour relations to adults, while in the sphere of labour safety, working time, rest time and other working conditions, they are provided with the additional guarantees established by this Code.

Article 179. Work prohibited for employees under the age of eighteen years

1. It is prohibited to engage employees under the age of eighteen years to perform heavy work or to work under harmful (particularly harmful) and (or) hazardous working conditions, as well as to perform work that might be harmful to their health and moral development (the gambling business, work in night-time entertainment establishments, production and transportation of and trading in alcoholic products, tobacco goods, narcotics, psychotropic substances and precursors).

2. It is prohibited for employees under the age of eighteen years to carry or move weights above the maximum standards established for them.

3. The list of jobs for which it is prohibited to engage employees under the age of eighteen years and the maximum weights for carriage and movement by employees under the age of eighteen years, shall be determined by the state labour authority on agreement with the state healthcare authority.

Article 180. Mandatory medical examination of employees under the age of eighteen years

With employees under the age of eighteen years, employment contracts shall be concluded only after mandatory preliminary medical examination. Subsequently, until reaching the age of eighteen years, the employees shall undergo mandatory annual medical examination.

Article 181. The duration of working time for employees under the age of eighteen years

Reduced working time is established for employees under the age of eighteen years:

- 1) for employees from the age of fourteen up to the age of sixteen years – not more than 24 hours a week;
- 2) for employees from the age of sixteen up to the age of eighteen years – not more than 36 hours a week;
- 3) for students of educational institutions combining study and work during the academic year and aged from fourteen to sixteen years – 2.5 hours a day; aged from sixteen to eighteen years – 3.5 hours a day.

Article 182. Labour compensation and productivity rates for employees under the age of eighteen years

1. Labour compensation for employees under the age of eighteen years shall be made in consideration of the reduced duration of their work.
2. Productivity rates for employees under the age of eighteen years shall be established proceeding from the general productivity rates for employees in proportion to the duration of the working time set in article 181 of this Code.
3. Lower productivity rates may be set for employees under the age of eighteen years starting work after finishing general educational institutions and primary occupational training institutions, as well as those who have undergone occupational training on the job.
4. The employer may make up the labour compensation for employees under the age of eighteen years to that of employees working a full working day.

Article 183. Specifics of the work and rest regime for employees under the age of eighteen years

It is prohibited to engage employees under the age of eighteen years to do night work, overtime work or work involving recording of cumulative hours worked, to send them on business trips and to work on a rotational basis, or to recall them from annual paid leave.

Article 184. Restrictions on the material liability of employees under the age of eighteen years

It is prohibited to conclude an agreement on full material liability with employees under the age of eighteen years.

Chapter 17. SPECIFICS OF THE REGULATION OF THE LABOUR OF WOMEN AND OTHER PERSONS WITH FAMILY RESPONSIBILITIES

Article 185. Restrictions on cancellation of the employment contract on the initiative of the employer

1. Cancellation of employment contracts on the initiative of the employer with pregnant women, women with children under the age of three years, single mothers bringing up a child under the age of fourteen years (a disabled child under the age of eighteen years), and other persons bringing up the given category of children without mothers shall not be permitted, with the exception of the cases envisaged by subclauses 1), 3) – 18), clause 1, article 54 of this Code.

2. In the event that, on the day of expiry of the employment contract, a woman present a medical report confirming pregnancy of 12 or more weeks, the employer shall, at her written request, prolong the employment contract until the last day of childcare leave, when the child reaches the age of three years.

Article 186. Work for which it is prohibited to engage women

1. It is prohibited to engage women to perform heavy work or work under harmful (particularly harmful) and (or) hazardous working conditions.

2. It is prohibited for women to lift and move manually weights in excess of the maximum standards established for them.

3. The list of jobs for which it is prohibited to engage women and the maximum weights for women to lift and move manually shall be determined by the state labour authority on agreement with the state healthcare authority.

Article 187. Specifics of the work and rest regime of women and other persons with family responsibilities

1. The employer shall not have the right to engage pregnant women to do night work, work on days off and public holidays or overtime work, to send them on business trips or to recall them from annual paid leave.

2. The employer shall not have the right to engage in night work or overtime work, or to send on business trips or to perform rotational work, without their written consent:

- 1) women with children under the age of seven years and other persons bringing up children under the age of seven years without a mother;
- 2) employees caring for sick family members or bringing up disabled children if, on the basis of a medical opinion, children up to the age of three years, disabled children or sick family members require constant care.

Article 188. Child feeding breaks

1. In addition to rest and meal breaks, shift breaks and special breaks, women with children up to the age of eighteen months and fathers (adoptive parents) bringing up children up to the age of eighteen months without a mother shall be granted additional breaks for child feeding at least once every three working hours of the following duration:

- 1) with one child – each break shall last at least twenty minutes;
- 2) with two or more children – each break shall last at least one hour.

2. Child feeding breaks may, at the request of the employee indicated in clause 1 of this article, be added to the rest and meal break or the consolidated breaks may be granted at the beginning or the end of the working day (shift).

3. Child feeding breaks shall be counted as working time. During said breaks, women (fathers, adoptive parents) shall retain their average wage.

Article 189. Establishment of part-time work for women and other persons with family responsibilities

The employer shall, on the basis of a written application from a pregnant woman, a woman with a child (children) under the age of three years, a father or adoptive parent bringing up children under the age of three years without a mother, as well as from an employee caring for a sick family member in accordance with a medical opinion, establish a part-time work regime.

Article 190. Restriction on recording of cumulative hours worked for pregnant women

Application of recording of cumulative hours work to pregnant women shall not be permitted if the duration of the working day (work shift) exceeds eight hours.

Article 191. Temporary transfer of pregnant women to other work

The employer shall, on the basis of a medical opinion, transfer a pregnant woman to other work excluding any impact of harmful and (or) hazardous production factors, with retention of the average wage.

Article 192. Guarantees to women on establishment of the sequence of annual paid leave

Before or directly after maternity leave or on expiry of the childcare leave, a woman may, at her wish, be granted annual paid leave.

Article 193. Paid maternity leave

1. Women shall be granted seventy calendar days ante-natal and fifty six (in the event of a complicated birth or birth of two or more children – seventy) calendar days post-natal paid maternity leave, unless otherwise established by the laws of the Republic of Kazakhstan.
2. The leave shall be calculated in aggregate and the leave shall be granted to women in full, irrespective of the number of days of actual ante-natal leave taken and the length of the service record with the given employer.

Article 194. Paid leave for employees adopting newborns

Employees adopting newborns shall be granted (one of the parents) paid leave for the period from the date of adoption until expiry of fifty six days from the birth date of the child.

Article 195. Unpaid childcare leave

1. The employer shall provide unpaid leave to an employee for caring for a child until it reaches the age of three years:
 - 1) at the parents' choice – to the mother or the father of the child;
 - 2) to a parent bringing up a child on his/her own;
 - 3) to a grandmother, grandfather, other relative or guardian actually bringing up the child;

4) to an employee adopting a newborn(s).

2. Unpaid leave for caring for a child until it reaches the age of three years may be used in full or in parts on the basis of a written application from the employee, as indicated in clause 1 of this article, at the employee's choice.

3. The employee's job (position) shall be kept open during the period of unpaid leave for caring for a child until it reaches the age of three years.

4. The period of unpaid leave for caring for a child until it reaches the age of three years shall be counted in the general work service record and the work service record in the given specialisation, unless otherwise envisaged by the laws of the Republic of Kazakhstan.

Chapter 18. SPECIFICS OF THE REGULATION OF WORK BY EMPLOYEES COMBINING JOBS

Article 196. The combined-job employment contract

The employee shall have the right to conclude a combined-job employment contract both with one employer with which it already maintains labour relations (at the main place of work), and with several employers.

The combined-job employment contract shall indicate that the work is performed as a combined job.

Article 197. Additional documents necessary for concluding a combined-job employment contract

For conclusion of a combined-job employment contract with another employer, in addition to the documents envisaged in article 31 of this Code, the employee shall present an information sheet regarding the nature of the work and the working conditions at the main place of work (the place of the work, position, working conditions).

Article 198. Duration of combined-job working time

The aggregate duration of the working day at the main place of work and the second job shall not exceed the standard duration of the working day established in article 82 of this Code by more than 4 hours.

Article 199. Annual paid leave for combined jobs

1. Employees working under a combined-job employment contract shall be granted annual paid leave at the same time as their leave from their main place of work.
2. If the duration of the annual paid leave under the combined-job employment contract is less than the duration of the leave at the other job, the employer shall, at the request of the combined-job employee, grant him unpaid leave of the number of days constituting the difference between the durations of the leave from the two jobs.

Article 200. Restrictions on conclusion of combined-job employment contracts

Conclusion of a combined-job employment contract shall not be permitted with employees under the age of eighteen years and with employees engaged in heavy work or work under harmful (particularly harmful) and (or) hazardous working conditions.

Article 201. Additional grounds for cancellation of a combined-job employment contract

A combined-job employment contract, apart from on the grounds envisaged by article 54 of this Code, may be cancelled on the initiative of the employer in the event of conclusion of an employment contract with an employee for whom this will be the main job.

Chapter 19. SPECIFICS OF THE REGULATION OF THE WORK OF EMPLOYEES ENGAGED IN HEAVY WORK OR WORK UNDER HARMFUL (PARTICULARLY HARMFUL) AND (OR) HAZARDOUS WORKING CONDITIONS

Article 202. Reduction of working hours for employees engaged in heavy work or work under 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, a shorter working week of no more than 36 hours is established.
2. The list of production units, workshops, professions and jobs, as well as the list of heavy work or work under harmful (particularly harmful) and (or) hazardous working conditions, work in which gives an entitlement to shorter working hours shall be determined by the state labour authority, on agreement with the state healthcare authority.

Article 203. Additional annual paid leave

Additional annual paid leave shall be granted to employees according to the list of production units, workshops, professions and jobs, as well as the list of heavy work or work under harmful (particularly harmful) and (or) hazardous working conditions, work in which gives an entitlement to additional annual paid leave. The duration of this type of leave, as well as conditions on which it is granted, shall be determined by the state labour authority, on agreement with the state healthcare authority.

Article 204. Labour compensation for employees engaged in heavy work or work under harmful (particularly harmful) or hazardous working conditions

Labour remuneration for employees engaged in heavy work or work under harmful (particularly harmful) or hazardous working conditions shall be set at a higher level than the labour remuneration of employees engaged in work under normal working conditions, by means of establishment of higher wages (rates) or mark-ups, and shall not be less than those established by the legislation of the Republic of Kazakhstan, branch agreements or collective bargaining agreements, based on the minimum labour compensation standards.

The list of production units, workshops, professions and jobs, as well as the list of heavy work or work under harmful (particularly harmful) and (or) hazardous working conditions shall be determined by the state labour authority, on agreement with the state healthcare authority.

The labour compensation established by this article shall apply to employees whose heavy work or work under harmful (particularly harmful) or hazardous conditions is confirmed by the results of work-place certification.

Article 205. Provision of healthy and safe working conditions

Depending on the working conditions, employees of organisations shall be issued, at the employer's expense, with special clothing, special footwear and other means of personal protection, washing and disinfectant materials, milk, therapeutic and protective meals at least of the standard set by the state labour authority.

Chapter 20. SPECIFICS OF THE REGULATION OF THE WORK OF EMPLOYEES ENGAGED IN SEASONAL WORK

Article 206. Seasonal work

Seasonal work is that which, by virtue of climatic or other natural conditions, is performed during a specific period (season), but no longer than one year.

Article 207. Specifics of the conclusion of employment contracts with seasonal employees

1. The employment contract shall indicate the condition of conclusion of a contract for performance of seasonal work and the specific period for its fulfilment.
2. On conclusion of an employment contract for seasonal work, no probationary period shall be established for the purpose of verifying the employee's fitness for the work entrusted thereto.

Article 208. Additional grounds for cancellation, on the initiative of the employer, of employment contracts with employees engaged in seasonal work

An employment contract with an employee engaged in seasonal work, apart from the grounds envisaged by article 54 of this Code, may be cancelled on the initiative of the employer in cases:

- 1) of a halt to work with the employer for a period of over two weeks for reasons of a production nature;
- 2) absence of the employee from work for a period of one whole month as a consequence of temporary disability.

Article 209. Specifics of the procedure for cancelling an employment contract with an employee engaged in seasonal work

1. An employee engaged in seasonal work shall have the right to cancel the employment contract on his own initiative by serving seven calendar days' written notice to the employer.
2. The employer shall give the employee engaged in seasonal work seven calendar days' written notice of the impending cancellation of the employment contract on the grounds envisaged by subclauses 1) and 2), clause 1, article 54 of this Code.
3. On cancellation of the employment contract with an employee engaged in seasonal work, the employer shall make a compensatory payment for unused leave in proportion to the time worked.
4. On termination of the employment contract with an employee engaged in seasonal work in connection with liquidation of the organisation, a reduction in staff numbers of jobs, severance pay of two weeks' average wage shall be paid to the employee.

Chapter 21. SPECIFICS OF THE REGULATION OF ROTATIONAL WORK

Article 210. Specifics of the rotational work method

1. The rotational method is a specific form of work away from the employees' place of permanent residence when daily commuting is not possible.
2. During the time spent by employees working on rotation at the production facility, the employer shall provide them with accommodation, transport to and from their place of work, as well as the conditions for work performance and inter-shift rest.

The employer shall provide conditions for the employee's stay at the production facility in accordance with the employment contract and collective bargaining agreement.

Article 211. Restrictions on rotational work

Employees under the age of eighteen years, pregnant women and class I and II disabled persons shall not be engaged in rotational work. Other employees may be engaged in rotational work provided such work is not contraindicated for them on the basis of a medical opinion.

Article 212. Duration of the rotation

1. A rotation shall be deemed to be the period including time spent working at the facility and rest time between shifts.
2. The duration of each rotation shall not exceed thirty calendar days. Article 213.

Recording of rotational working time and rest time

1. With the rotational work method, recording of cumulative hours worked is established per month, quarter or other longer period, but not more than one year.
2. The recording period shall cover working time, rest time, time en route from the employer's location or the gathering point for travel to and from work. At the same time, the total duration of working time for the recording period shall not exceed the standard set by this Code.
3. It shall be permitted to grant annual paid leave in parts during a period of inter-rotational rest.
4. The employer shall record the working time and rest time of each employee working by the rotational method by the month and for the entire recording period.

Chapter 22. SPECIFICS OF THE REGULATION OF THE WORK OF DOMESTIC STAFF

Article 214. Specifics of the conclusion and termination of employment contracts with domestic staff

1. Domestic staff are defined as those performing work (services) in the homes of individual employers.
2. The employer does not issue acts of hiring or termination of labour relations with domestic staff or enter information on their work in their work record book.
3. The work of domestic staff shall be confirmed by employment contracts.
4. The terms of the written notice of termination (cancellation) of employment contracts with domestic staff, as well as cases and amount of compensatory payments in connection with loss of work shall be established by the employment contract.

Article 215. Working time and rest time regime for domestic staff

1. The working time and rest time duration standards set by this Code shall apply to domestic staff.
2. The work regime, the procedure for granting days off, annual paid leave, engagement in overtime work, night work and work on days off and public holidays of domestic staff shall be determined by the employment contracts.

Article 216. Procedure for imposing and lifting disciplinary sanctions

The procedure for imposing and lifting disciplinary sanctions in relation to a domestic staff shall be determined by the employment contracts.

Article 217. Resolution of individual labour disputes

Individual labour disputes between domestic staff and employers shall be resolved by agreement of the parties and (or) in a court of law.

Article 218. Cancellation of employment contracts with domestic staff

Cancellation of employment contracts with domestic staff shall be performed on the grounds envisaged by the employment contracts.

Chapter 23. SPECIFICS OF THE REGULATION OF THE WORK OF OUTWORKERS

Article 219. Outworkers

1. Outworkers are defined as persons who conclude employment contracts with employers to perform work at home, using their own materials and equipment, tools and devices or ones allocated or purchased at the employer's expense.
2. Performance of work at home by the employee may be established both on conclusion of an employment contract or by entry of corresponding amendments into the employment contract during the term of validity thereof.

Article 220. Working conditions of outworkers

1. Outwork may be performed only in cases when not contraindicated for the employee on health grounds and labour protection and labour safety requirements may be met for performance of said work.
2. The employment contract for performance of outwork shall envisage terms and conditions regarding:
 - 1) performance of the work using equipment, materials, tools and devices belonging to the employee or allocated by the employer or purchased at the latter's expense;
 - 2) the manner and schedule for provision of the employee with raw and other materials and semi-finished goods for performance of the work;
 - 3) the manner and schedule for delivery of the finished products;
 - 4) compensation and other payments to the employee.

Article 221. Working time and rest time regime, conditions for providing for the labour protection and labour safety of outworkers

The working time and rest time regime, the specifics of control exercised by the employer over observance by the employee of the working time regime, the conditions for providing for labour protection and labour safety and observance of these conditions by the employee performing outwork shall be determined by the employment contract.

Chapter 24. SPECIFICS OF THE REGULATION OF THE WORK OF DISABLED PEOPLE

Article 222. Exercise by the disabled of their right to work

1. The disabled have the right to conclude employment contracts with employers with customary working conditions or in specialised organisations using the work of disabled people in consideration of individual rehabilitation programmes.

2. It shall be prohibited to refuse to conclude an employment contract with a disabled person, to transfer a disabled person to another job or change the working conditions by virtue of disability, with the exception of cases when, by conclusion of the state labour authority in the sphere of social protection of the population, the state of the disabled person's health impedes performance of his job duties or threatens his health and (or) the labour protection of other persons.

Article 223. Working conditions of disabled employees

1. The conditions of work time standard setting, labour compensation, labour safety, the work regime, the procedure for combining professions (jobs), technical, sanitary, hygienic, production and living conditions, as well as other terms and conditions, on agreement between the parties, of the employment contract and collective bargaining agreement shall not create a worse situation for or restrict the rights of disabled employees in comparison with other employees.

2. It is prohibited to engaged disabled people to perform heavy work or work under harmful (particularly harmful), hazardous working conditions.

3. Working disabled people may be granted the supplementary guarantees established by this Code, agreements, acts of the employer, as well as employment contracts and collective bargaining agreements.

4. Medical opinions on part-time work, work load reduction and other working conditions of disabled employees shall be binding on the employer.

Article 224. Reduction in working hours of disabled employees

1. Disabled employees of disability groups 1 and II shall be set a working week of no more than 36 hours.

2. The duration of the working day (work shift) of disabled employees of groups I and II shall not exceed seven hours.

Article 225. Restriction on recording of cumulative hours worked by disabled employees

1. For disabled employees of groups I and II, recording of cumulative hours worked shall not be permitted.

2. For disabled employees of group III, recording of cumulative hours worked shall not be established if said regime is prohibited for medical reasons.

Article 226. Restrictions on night work, overtime work, work on days off and public holidays, and business trips by disabled employees

Disabled employees may be engaged to perform overtime work, night work, work on days off and public holidays, and to travel on business trips only with their written consent and provided said work is not prohibited for them on medical grounds.

Article 227. Provision of annual paid leave to disabled employees

Disabled employees shall be granted annual paid leave in accordance with the leave timetable approved by the employer on agreement with them.

Article 228. Provision of additional annual paid leave to disabled employees

Additional annual paid leave shall be granted to disabled employees together with the annual paid leave or, at the wish of the disabled employee, at any other time.

Chapter 25. SPECIFICS OF THE REGULATION OF THE WORK OF CIVIL SERVANTS

Article 229. Joining the civil service

1. The civil service may be joined by appointment or competition.
2. A competition shall be organised and held by a state institution or state-owned enterprise with a vacant position.
3. The procedure for joining the civil service and for holding the competition to fill a vacant civil service position shall be determined by the Government of the Republic of Kazakhstan.
4. Hiring for the civil service shall be performed by means of conclusion of an employment contract and issue of an act of the employer.

Article 230. List of civil service jobs

The list of civil service jobs shall be determined by the Government of the Republic of Kazakhstan.

Article 231. Restrictions connected with civil service work

A civil servant shall not have the right:

- 1) to use the material and technical, financial and informational support, other state property or official information for non-official purposes;
- 2) to participate in actions hampering the normal functioning of the civil service and performance of job duties;
- 3) to use his official position for a purpose not connected with the civil service;
- 4) to divulge information acquired during his time in the civil service, constituting state secrets, official or other secrets protected by law.

Article 232. Transfer of a civil servant to work in another state institution (state-owned enterprise)

On his written application, a civil servant may be transferred to work in another state institution (state-owned enterprise) on agreement between the heads of the corresponding organisations.

Article 233. Appraisal of civil servants

For the purpose of determining the level of occupational and qualification training, and their job qualities, civil servants shall undergo appraisal.

The procedure for and conditions of the appraisal of civil servants shall be determined by the state authority in the corresponding sphere.

Article 234. Civil service advancement

1. Civil service advancement of civil servants shall be carried out by means of their transfer to a higher position.
2. Civil servants with a high level of qualifications and work experience, who constantly raise their professional and qualification level shall enjoy priority rights to civil service advancement.

Article 235. Further training and re-training of civil servants

1. Civil servants may be referred to corresponding educational institutions for the purpose of increasing their professional knowledge and skills and acquiring professions and specialisations.
2. Training, re-training and further training, including scientific internship, shall, in the event of study by a civil servant on the job, be paid for by the referring organisation.

During study time of a civil servant, he shall retain his position, guarantees and compensation payments.

3. Civil servants undergoing further training or re-training in a specialisation corresponding to the profile of the activities of the civil service shall be granted paid study leave.

Article 236. Incentives to civil servants

The following incentives may be given to civil servants for conscientious fulfilment of job duties, high quality work, including work of particular complexity and urgency, for initiative, creativity and other work achievements:

- 1) civil service advancement;
- 2) monetary remuneration;
- 3) expression of gratitude.

The collective bargaining agreement may envisage other, additional incentive measures.

Article 237. Guarantees and compensation payments to civil servants relocating to work elsewhere

On relocating for work together with a state institution (state-owned enterprise) to another locality (population centre) in the same administrative and territorial unit, civil servants shall be paid:

the relocation travel costs of the civil servant himself and the members of his family (apart from cases when the state institution (state-owned enterprise) provides suitable transport);

property removals costs;

per diem for each day en route;

a one-time allowance in the amount of six monthly salaries for the position held;

wage for the days of gathering for departure and settling in at the new place of residence, but not more than six days, as well as time spent en route.

Article 238. Labour compensation for civil servants

1. The system of labour compensation for civil servants maintained at government expense shall be determined by the Government of the Republic of Kazakhstan.
2. For civil servants in the sphere of healthcare, social security, education, culture and sport, working in aul (rural) localities, by decision of the local representative bodies and at the expense of budget funds, wage and tariff rate mark-ups of at least twenty five per cent shall be established in comparison with the wages and rates of civil servants engaged in these types of activity under urban conditions, unless the laws of the Republic of Kazakhstan establish otherwise.
3. The list of jobs of specialists in the sphere of healthcare, social security, education, culture and sport, working in aul (rural) localities shall be determined by the local executive authority on agreement with the legal representative authority.

Article 239. Leave for civil servants

1. Civil servants maintained at government expense shall be granted annual paid leave of at least thirty calendar days with payment of a health allowance in the amount of their wage. Health allowances shall be paid to civil servants once a year.

For individual categories of civil servant, the laws of the Republic of Kazakhstan may establish longer annual paid leave.

2. Civil servants studying in higher educational institutions by agreement with the employer shall be granted paid study leave for the examination period, for study and defence of their diploma project (work) and for taking final examinations.

Article 240. Additional grounds for termination of employment contracts with civil servants

1. In addition to the grounds for termination of employment contracts with employees established by this Code, additional grounds for termination of employment contracts with civil servants shall consist of their reaching the pensionable age established by the law of the Republic of Kazakhstan.

2. The employment contract with a civil servant who has reached pensionable age and possesses a high professional and qualification level may, in consideration of his working capacity, be prolonged annually by the head of the state institution (state-owned enterprise).

Chapter 26. SPECIFICS OF THE REGULATION OF THE WORK OF EMPLOYEES OF SMALL BUSINESSES

Article 241. Small business to which the specifics of the regulation of work shall apply

The specifics of the regulation of work established by this chapter shall apply to small businesses with an annual average staff of no more than 25 persons.

Article 242. Duration of employment contracts for small businesses

Small businesses may conclude employment contracts with employees for a specific term without the restrictions envisaged by subclause 2), clause 1, article 29 of this Code.

Article 243. Internal labour regulations of small businesses

Small businesses shall approve their own internal labour regulations.

Article 244. Work regime

Small businesses shall have the right to establish a work regime envisaging work on days off and public holidays in accordance with a timetable approved by the employer and to use recording of cumulative hours worked or divide the working day into parts in observance of the overall requirements on the duration of working time.

Article 245. Terms of labour compensation

The terms of the labour compensation of employees of small businesses shall be established or changed by the employer and the employees informed thereof at the time of conclusion of the employment contract or no later than one month before the approval. On approving the terms of labour compensation, the employer shall not have the right to change the terms and conditions of the employment contract unilaterally.

Article 246. Participation by small businesses in social partnership

Labour relations with the participation of small businesses shall be covered by agreements provided the employers and employees have united in the corresponding organisations for the purpose of negotiating and signing such agreements.

Article 247. Specifics of organisation of labour protection and labour safety in small businesses

Labour protection and labour safety in small businesses may be organised on a contractual basis with individuals or legal entities.

Chapter 27. REGULATION SPECIFICS OF THE WORK OF THE HEAD OF A LEGAL ENTITY AND THE MEMBERS OF THE COLLEGIAL BODY THEREOF

Article 248. Legal foundations of regulation of the work of the head of the executive body of a legal entity

Labour relations with the head of the executive body of a legal entity shall be based on this Code, the laws of the Republic of Kazakhstan, constituent documents and the employment contract.

Article 249. Conclusion of the employment contract with the head of the executive body of a legal entity

An employment contract with the head of the executive body of a legal entity shall be concluded by the owner of the assets of the legal entity or a person (body) authorised thereby or an authorised body of the legal entity for the term established by the laws of the Republic of Kazakhstan, constituent documents or agreement between the parties.

The laws of the Republic of Kazakhstan or constituent documents may establish supplementary procedures preceding conclusion of an employment contract with the head of the executive body of a legal entity.

Article 250. Job-combining by the head of the executive body of a legal entity

The head of the executive body of a legal entity may hold paid positions in other organisations only with the permission of the authorised body of the legal entity or the owner of the assets of the legal entity, or a person (body) authorised thereby.

Article 251. Material liability of the head of the executive body of the legal entity

The head of the executive body of a legal entity shall bear material liability for damage inflicted thereby on the legal entity, in the manner established by this Code or other laws of the Republic of Kazakhstan.

Article 252. Additional grounds for termination of the employment contract with the head of the executive body of the legal entity

In addition to the grounds envisaged by this Code, additional grounds for termination of the employment contract with the head of the executive body of a legal entity shall consist of a decision by the owner of the assets of the legal entity or of a person (body) authorised by the owner or the authorised body of the legal entity on premature termination of labour relations.

In the event of termination of the employment contract with the head of the executive body of a legal entity before expiry of its term of validity, he shall be paid severance pay for early cancellation of the employment contract in the amount determined in the employment contract.

Article 253. Early cancellation of the employment contract on the initiative of the head of the executive body of the legal entity

The head of the executive body of a legal entity shall have the right to cancel the employment contract early by serving at least two months' written notice to this effect on the owner of assets of the legal entity or the person (body) authorised thereby or an authorised body of the legal entity.

Article 254. Specifics of regulation of the labour of members of the collegial executive body of the legal entity

The specifics established by this chapter relating to regulation of the labour of the head of the executive body shall also apply to the other of members of the collegial executive body of the legal entity, unless the laws of the Republic of Kazakhstan or the constituent documents stipulate otherwise.

Chapter 28. SPECIFICS OF REGULATION OF THE WORK OF CIVIL SERVANTS, DEPUTIES TO THE PARLIAMENT AND MASLIKHATS, JUDGES OF THE REPUBLIC OF KAZAKHSTAN, SERVING MEMBERS OF THE ARMED FORCES AND LAW-ENFORCEMENT OFFICERS

Article 255. Regulation of the work of civil servants, deputies to the Parliament and maslikhats, and judges of the Republic of Kazakhstan

The work of civil servants, deputies to the Parliament and maslikhats, and judges of the Republic of Kazakhstan shall be regulated by this Code, with the specifics envisaged by the laws of the Republic of Kazakhstan and other regulatory and legal acts of the Republic of Kazakhstan establishing special conditions and procedures taking up of a position, serving and termination of service, special working conditions, labour compensation, as well as supplementary benefits, advantages and restrictions.

Article 256. Serving members of the armed forces and law enforcement officers

1. Serving members of the armed forces shall mean persons serving in the Armed Forces of the Republic of Kazakhstan, national defence authorities, the Republican Guard, internal security troops, military investigation agencies and the military police, the Security Service of the President of the Republic of Kazakhstan, civil defence management bodies and units of the executive authority of the Republic of Kazakhstan for emergencies and military prosecutor's agencies.

2. Law enforcement officers shall mean persons serving in internal affairs bodies, the penal enforcement system, the financial police, the state fire service, customs authorities and prosecutor's agencies of the Republic of Kazakhstan, performing law-enforcement activities in accordance with the laws of the Republic of Kazakhstan.

Article 257. Regulation of the work of serving members of the armed forces and law enforcement officers

The work of serving members of the armed forces and law enforcement officers shall be regulated by this Code, with the specifics envisaged by the laws of the Republic of Kazakhstan and other regulatory and legal acts of the Republic of Kazakhstan establishing special conditions and procedures taking up of a position, serving and termination of service, special working conditions, labour compensation, as well as supplementary benefits, advantages and restrictions.

SECTION 4. SOCIAL PARTNERSHIP AND COLLECTIVE BARGAINING RELATIONS IN THE LABOUR SPHERE

Chapter 29. SOCIAL PARTNERSHIP IN THE LABOUR SPHERE

Article 258. The tasks of social partnership

Social partnership in the Republic of Kazakhstan is designed to fulfil the following tasks:

1) creation of an effective mechanism for regulating social, labour and associated economic relations;

- 2) promotion of social stability and social consensus on the basis of objective consideration of the interests of all strata of society;
- 3) promotion of guarantees of the rights of employees in the sphere of labour; their social security;
- 4) promotion of the process of consultations and negotiations between the parties to the social partnership at all levels;
- 5) promotion of resolution of collective labour disputes;
- 6) development of proposals for implementing state policy in the sphere of socio-labour relations.

Article 259. Key principles of the social partnership

The key principles of the social partnership are:

- 1) authority of the representatives of the parties;
- 2) equal rights of the parties;
- 3) freedom to choose the topics for discussion;
- 4) voluntary assumption of obligations;
- 5) respect for the interests of the parties;
- 6) mandatory fulfilment of collective bargaining agreements and other agreements;
- 7) liability of the parties and their representatives for failure, at their own fault, to fulfil the obligations under an agreement;
- 8) assistance to the state in consolidating and developing the social partnership;
- 9) openness of decisions taken.

Article 260. Social partnership bodies

Social partnership shall be ensured in the form of interaction between the parties through social partnership bodies:

- 1) at the republican level – the republican trilateral commission for social partnership and regulation of social and labour relations (hereinafter referred to as the republican commission);
- 2) at the branch level – branch commissions for social partnership and regulation of social and labour relations (hereinafter referred to as the branch commission);
- 3) at the regional (region, city, district) level – regional, city, district commissions for social partnership and regulation of social and labour relations (hereinafter referred to as the regional commission);
- 4) at the level of organisations in form of agreements or of collective bargaining agreements establishing specific mutual obligations in the sphere of labour between employees’ representatives and the employer, and in organisations with foreign participation – residents of the Republic of Kazakhstan on the basis of international treaties (agreements) and the legislation of the Republic of Kazakhstan.

Article 261. Forms of social partnership

Social partnership shall take the following forms:

collective bargaining negotiations on preparation of draft collective bargaining agreements, other agreements and their conclusion;

mutual consultations (negotiations) on issues of the regulation of labour relations and other relations directly connected therewith, guarantees of the rights of employees in the sphere of labour and improvement of the labour legislation of the Republic of Kazakhstan; participation by employees’ representatives and employers in pretrial resolution of labour disputes.

Article 262. The parties to the social partnership

The parties to the social partnership are the state, represented by the corresponding executive authorities, employees and employers, represented by their duly authorised representatives.

Article 263. Organisation of the social partnership at the republican level

1. The republican commission is a standing body for co-ordinating the interests of the parties to the social partnership by means of consultations and negotiations, drawn up in corresponding resolutions.
2. The participants on the republican commission are authorised representatives of the Government of the Republic of Kazakhstan, republication associations of employees and republican associations of employers.

3. The authorised representatives of republican associations of employees are associations with structural subdivisions (branches and representative offices) on the territory of over half the regions of the Republic of Kazakhstan and cities of republican significance.
4. The authorised representatives of republican associations of employers are representatives of the republican union of private business associations, the republican association of small business and republican branch private business associations.

The given unions (associations) are represented on a proportional basis, depending on the number of republican public associations they embrace.

Article 264. Organisation of the social partnership at the branch level

1. A branch commission is a standing body for co-ordinating the interests of the parties to the social partnership by means of consultations and negotiations, drawn up in corresponding resolutions. For purposes of this Code, the list of branches is determined by the republican commission.
2. The participants in branch commissions are authorised representatives of state authorities in the corresponding spheres of activity, representatives of employers and of employees.
3. The authorised representatives of branch associations of employees are branch trades unions with structural subdivisions (branches and representative offices) on the territory of regions and cities of republican significance.
4. The authorised representatives of employers are representatives of branch organisations.

Article 265. Organisation of the social partnership at the regional level

1. A regional commission is a standing body for co-ordinating the interests of the parties to the social partnership by means of consultations and negotiations, drawn up in corresponding resolutions.
2. The participants in regional commissions are corresponding authorised representatives of local executive bodies, representatives of employers and of employees.
3. The authorised representatives of regional associations of employees are trades unions at the regional, city and district levels.
4. The authorised representatives of employers at the regional level are:

at the regional level – regional private business associations, regional associations of small business;

at the city and district levels – city and district associations of small business.

Article 266. Regulation of socio-labour relations at the level of the organisation

1. To provide for regulation of socio-labour relations, the holding of collective bargaining negotiations and elaboration of draft collective bargaining agreements and their conclusion, discussion of draft acts of the employer, which, in accordance with this Code, are issued in consideration of the opinion or on agreement with employees' representatives, as well as for organisation of control over fulfilment of collective bargaining agreements, on an equal basis and by decision of the parties commissions are formed of representatives of the parties assigned the requisite authority.

2. The employer, in accordance with the terms and conditions of the collective bargaining agreement, shall create conditions for the activities of a trades union operating within the organisation.

3. On agreement between the parties and given written applications from employee members of the trades union, the employer may, on a monthly basis, remit trades union membership dues to the account of the trades union out of the employees' wages.

Article 267. Principles and procedure for setting up standing republican, branch and regional commissions

1. Standing republican, branch and regional commissions shall be formed on the basis of the following principles:

1) mandatory participation by representatives of executive authorities, representatives of employers and of employees in the activities of the commissions;

2) authority of the parties;

3) parity representation;

4) equality of the parties;

5) mutual liability of the parties.

2. The personnel participating on the commissions shall be decided by each party to the social partnership independently.

Article 268. Chief objectives and tasks of republican, branch and regional commissions

1. The chief objectives of the commissions consist in regulation of social and labour relations and co-ordination of the interests of the parties to the social partnership.

2. The chief tasks of the commissions are:

1) co-ordination of the positions of the parties to the social partnership regarding the main spheres of social and economic policy;

2) elaboration and conclusion of agreements;

3) elaboration, co-ordination and approval of measures for implementing agreements;

4) holding of consultations and elaboration of recommendations on issues relating to ratification and application of international work time standards.

3. The commissions shall act in accordance with the provisions and work plans approved thereby. Meetings of commissions shall be held at least twice a year.

Article 269. Chief rights of republican, branch and regional commissions

Republican, branch and regional commissions shall have the right:

1) to consider, at their meetings, problems of implementing a co-ordinated policy in the sphere of social and labour relations;

2) to co-ordinate the interests of executive authorities, associations of employers and of employees in drawing up a draft agreement, implementing said agreement and fulfilling the commission's resolutions;

3) to request from the executive authorities, employers and (or) employees' representatives information about agreements being concluded and concluded to regulate social and labour relations;

4) to exercise control over fulfilment of its resolutions and, in the event that they are not fulfilled by the responsible persons, to send the relevant party to the social partnership information with proposals for remedying the violations identified and imposing liability on the persons to blame for non-fulfilment of the terms and conditions of the agreement;

5) to request and receive from the executive authorities information on the social status as required for conducting collective bargaining negotiations and preparing the draft agreement, and organising control over fulfilment of the given agreement;

- 6) to make proposals for elaborating regulatory and legal acts in the sphere of social and labour relations for consideration by authorised state bodies;
- 7) to set up working groups involving scientists and experts;
- 8) to invite to meetings of the commission staff of executive authorities and public associations, as well as independent experts;
- 9) to adopt joint agreements and resolutions that are binding for consideration and fulfilment by the executive authorities, associations of employers and of employees by the deadlines set by the commission;

- 10) to take part in holding international, republican, and inter-regional meetings, conferences, congresses and seminars on aspects of social and labour relations and of the social partnership in a manner agreed with the organisers of the given events.

Article 270. Powers of employees' representatives

1. Representatives of employees shall have the right:

- 1) to represent and protect the socio-labour rights and interests of employees;
- 2) to hold collective bargaining negotiations with the employer on elaboration of drafts and conclusion of agreements and collective bargaining agreements; to receive for these purposes the necessary information on aspects of labour relations;
- 3) to participate in resolving issues involved in socio-economic development envisaged in agreements or collective bargaining agreements;
- 4) to exercise public control in the manner established by this Code;
- 5) to interact with state inspectors of the state labour authority on violations of the labour legislation;
- 6) in accordance with agreements and collective bargaining agreements, to visit work places in order to study and adopt measures to ensure normal working conditions;
- 7) to take part in the work of advisory bodies on elaborating and considering draft legislative acts and programmes relating to labour relations and socio-economic matters;

8) to participate in settling labour disputes between employee and employer in the manner established by this Code;

9) to hold gatherings, events, meetings, pickets and strikes in the manner envisaged by the legislation of the Republic of Kazakhstan.

2. Employers shall not be permitted to hamper employees' representatives in exercising their powers.

Chapter 30. PROCEDURE FOR CONCLUSION OF AGREEMENTS BETWEEN THE PARTIES TO THE SOCIAL PARTNERSHIP

Article 271. The right to hold negotiations on drafting agreements

1. Any party to the social partnership may initiate negotiations on elaboration, the content, conclusion, amendments and supplementation of an agreement.

2. Given the existence of several authorised representatives of employees and employers at the republican, branch, and regional levels, each of them shall be entitled to hold negotiations on behalf of the employees and employers they represent.

Article 272. Procedure for holding negotiations, elaborating and concluding agreements

1. Parties that have received written proposals on the launch of negotiations from another party shall, within a period of ten calendar days, consider said proposals and initiate the negotiations.

In the event of disagreements between the parties over individual provisions of a branch agreement, within a period of three months from the launch of the negotiations the parties shall sign a branch agreement on the terms and conditions agreed, and, at the same time, draw up a disagreement report.

2. The procedure for holding negotiations, the deadlines for elaborating and concluding agreements, as well as introduction therein of amendments and supplements, and accedence thereto shall be approved by the commissions.

3. Agreements shall come into effect from the time of their signing by the parties or from the day stipulated therein. All appendices to agreements shall constitute an integral part thereof and shall have equal legal force therewith.

4. The term of validity of an agreement shall be established by agreement between the parties or before adoption of a new agreement, but shall not exceed three years.

5. In cases, when employees are covered by several agreements simultaneously, the most favourable terms and conditions of the agreements shall apply to the employees.

6. General, branch and regional agreements shall be signed by representatives of the parties to the social partnership.

7. A branch or regional agreement, signed by the parties, together with appendices thereto, shall be forwarded within a period of ten days for registration by notification.

Article 273. Procedure for adoption of resolution by republican, branch and regional commissions

1. Resolutions of commissions shall be adopted only on the basis of agreement of all the parties to the negotiations and shall be drawn up in corresponding agreements.

2. In the course of negotiations, if the parties are unable to reach an agreement, a report shall be drawn up including the formulated proposals of the parties for eliminating the disagreements and the time schedule for renewing the negotiations.

3. The procedure for adopting resolution and organising work shall be developed and approved by the commissions.

Article 274. Commission co-ordinators

Co-ordinators of republican, branch and regional commissions shall be appointed by joint decision of the parties. A commission co-ordinator:

1) shall not interfere in the activities of the parties;

2) shall invite representatives of associations of employers and of employees and representatives of executive authorities that are not members of the commissions, as well as scientists and experts and representatives of other organisations to participate in the work of the commission;

3) shall provide for the work of the commission and working groups, keeping of the minutes, drafting of resolution and control over their fulfilment.

Article 275. The parties to and types of agreement

1. At the republican level, a General agreement is concluded between the Government of the Republic of Kazakhstan, republican associations of employers and republican associations of employees.
2. At the branch level, branch agreement is concluded between the relevant executive authorities and authorised representatives of employers and of employees.
3. At the regional level, regional (region, city, district) agreements are concluded between local executive authorities and authorised representatives of employers and of employees.

Article 276. Content of the agreements

1. Agreements shall include provisions:

- 1) on their term of validity;
- 2) on the procedure for controlling their fulfilment;
- 3) on the procedure for introducing amendments and supplements into the agreement;
- 4) on liability of the parties in the event of their failure to fulfil the obligations assumed.

2. The content of the General agreement is determined by the republican commission proceeding from a draft General agreement proposed by all the parties to the social partnership or by one of them.

3. The content of branch and regional agreements is determined by the branch and regional commissions on the basis of draft agreements proposed by all the parties to the social partnership or by one of them.

4. The agreement may envisage provisions:

- 1) on payment, working conditions and labour safety, the working time and rest time regime.

The minimum rate (wage) for each branch shall be determined by branch agreements;

2) on the mechanism for regulating labour compensation proceeding from the price and inflation levels, the subsistence level and fulfilment of the parameters determined by the agreement;

3) on compensation payments;

- 4) on promotion of employment, occupational training and further training of employees;
- 5) on organisation of protection of the health of employees at work by creating favourable conditions for work and rest and providing a suitable environment;
- 6) on measures to foster a healthy lifestyle;
- 7) on special measures for social security of employees and members of their families;
- 8) on measures to protect employees in the event of a temporary suspension of production;
- 9) on prevention of conflicts and strikes and on strengthening of labour discipline;
- 10) on the conditions for employees' representatives to carry out their activities;
- 11) other provisions relating to socio-labour matters and not running counter to the legislation;
- 12) on promotion of development of the social infrastructure.

5. Branch agreements shall envisage provisions:

- 1) on payment, working conditions and labour safety, the working time and rest time regime;
- 2) on compensation payments;
- 3) on special measures for social security of employees;
- 4) on the mechanism for regulating labour compensation proceeding from the price and inflation levels, the subsistence level and fulfilment of the parameters determined by the agreement;
- 5) on establishment of branch multiplying factors.

6. Agreement provisions creating a worse position for employees compared to the labour legislation of the Republic of Kazakhstan shall be deemed null and void.

Article 277. Registration of agreements

1. Branch and regional agreements concluded at the region level shall be registered by the state labour authority.
2. Branch and regional agreements concluded at the city and district level shall be registered by local executive authorities.

Article 278. Agreement operation

1. Agreements shall apply to the relevant executive authorities, employees and employers who empowered the corresponding representatives of the parties to the negotiations to elaborate and conclude the given agreements on their behalf.

2. An agreement shall apply to:

all employers that are members of the associations of employers that concluded the agreement. Termination of membership of an association of employers shall not release the employer from the obligation to fulfil an agreement concluded during the period of its membership. An employer that joins an association of employers during the term of validity of an agreement shall fulfil the obligations envisaged by this agreement; employers that accede to the agreement after its signing.

3. Agreements shall also apply to organisations located on the territory of the Republic of Kazakhstan, owners of the assets, founders of (participants in) or shareholders in which are foreign individuals or legal entities or organisations with foreign participation.

4. The state labour authority at the republican level, empowered state authorities in the given sphere of activity at the branch level and local executive bodies at the regional level shall have the right, after publication of the agreement, to propose to associations of employers, employers and associations of employees that did not participate in conclusion of the agreement that they accede to the agreement at the corresponding level. The given proposals shall be subject to official publication.

If associations of employers, employers and associations of employees do not, within a period of 30 calendar days of the date of official publication of the proposal to accede to the agreement, submit a written, reasoned refusal to accede thereto to the relevant executive authorities, the agreement shall be recognised as being applicable to them from the day of the official publication of this proposal.

Article 279. Control over fulfilment of agreements

Control shall be exercised of fulfilment of agreements by the parties to the social partnership.

Article 280. Liability for refusal to participate in negotiations

Refusal by representatives of the parties to participate in negotiations on conclusion or amendment of an agreement on social partnership or unlawful refusal to sign an adopted agreement on social partnership or to provide the information necessary for holding negotiations and exercising control over observance of

the rules of an agreement on social partnership, as well as violation of or failure to fulfil its terms and conditions shall entail the liability established by the laws of the Republic of Kazakhstan.

Chapter 31. THE COLLECTIVE BARGAINING AGREEMENT

Article 281. Principles for holding collective bargaining negotiations The principles for holding collective bargaining negotiations are:

equality and respect for the interests of the parties;

freedom of choice in discussing the matters constituting the content of the collective agreement or other agreement;

voluntary assumption of obligations by the parties;

abidance by the labour legislation of the Republic of Kazakhstan.

Article 282. Procedure for holding collective bargaining negotiations, elaborating and concluding collective bargaining agreements

1. Any party may initiate the preparation of a draft collective bargaining agreement.

A party that receives a notification from the other party proposing starting negotiations on conclusion of a collective bargaining agreement shall, within a period of ten days, consider it and join the negotiations in the manner established by clause 2 of this article.

2. For holding of collective bargaining negotiations and preparing a draft collective bargaining agreement, the parties shall set up a commission on a parity basis. The numerical strength of the commission, its members and the deadlines for elaborating the draft and concluding the collective bargaining agreement shall be determined by agreement between the parties.

The employer shall, on agreement between the parties, provide the conditions necessary for elaborating and concluding the collective bargaining agreement.

Employees that are not members of the trades union shall have the right to authorise both the trades union body and other representatives to represent their interests in the interrelations with the employer.

Given the existence of several employees' representatives in the organisation, they may establish a unified representative body for participation in the commission and signing of collective bargaining agreement. At the same time, each of them shall be entitled to representation on the unified body for holding negotiations on the basis of the principle of proportional representation, depending on the number of employees they represent.

3. The draft collective bargaining agreement prepared by the commission shall be subject to mandatory discussion by the employees of the organisation. The draft discussion format shall be determined by the employees themselves. The draft shall be worked up by the commission in consideration of comments and proposals submitted.

4. On attainment of agreement between the parties, the collective bargaining agreement shall be drawn up in at least two originals and shall be signed by representatives of the parties.

5. In the event of disagreements between the parties over individual provisions of the collective bargaining agreement, within a period of one month from the launch of the collective bargaining negotiations the parties shall sign a collective bargaining agreement on the terms and conditions agreed and, at the same time, draw up a disagreement report.

6. Amendment and supplementation of the collective bargaining agreement shall be conducted only on mutual agreements between the parties in the manner established in this article for its conclusion.

7. The participants in collective bargaining negotiations shall not have the right to divulge information received if this information constitutes a state, official, commercial or other secret protected by law.

8. The participants in collective bargaining negotiations may be released from performance of their job duties during said negotiations and shall retain their average monthly wage. The given period shall be included in their work service record.

9. The representatives of the parties shall, within a period of one month, submit the collective bargaining agreement signed by the parties to the territorial subdivision of the state labour authority for monitoring purposes.

10. The representatives of the parties shall periodically inform the employees on the course of implementation of the collective bargaining agreement.

Article 283. Parties to a collective bargaining agreement

1. The parties to a collective bargaining agreement are employees and the employer.

2. A collective bargaining agreement may be concluded both within organisations and within branches and representative offices.

Article 284. Content and structure of the collective bargaining agreement

1. The content and structure of the collective bargaining agreement shall be determined by the parties. The collective bargaining agreement shall include the following provisions:

- 1) on work time standard setting, forms and systems of labour compensation, rates and wages, supplements and mark-ups to employees, including those engaged in heavy work and work under harmful (particularly harmful) and (or) hazardous working conditions;
- 2) on indexation of labour compensation, on payment of allowances and compensation, including additional compensation in the event of accidents;
- 3) on the permissible ratio of maximum and minimum wages in the corresponding profession or position within the organisation;
- 4) on establishment inter-rank coefficients;
- 5) on the duration of working time and rest time, and leave;
- 6) on creation of healthy and safe working and living conditions, on financing of labour protection and labour safety measures, on improving health protection, on guarantees of medical insurance of employees and their families and on environmental protection;
- 7) on establishment of inter-rank coefficients for the given branch.

2. The collective bargaining agreement may include mutual obligations of employees and of the employer on the following matters:

- 1) on improvement of labour organisation and raising production efficiency;
- 2) on labour regulations and labour discipline;
- 3) on provision of employment, training, further training, re-training and job placement of employees made redundant;
- 4) on guarantees and benefits to employees combining work and study;

- 5) on improving the housing and living conditions of employees;
- 6) on health improvement, sanatorium and resort treatment and rest for employees;
- 7) on the procedure for taking account of the reasoned opinion of the trades union organisation body when cancelling employment contracts with employee members of the trades union;
- 8) on guarantees to employees elected to trades union bodies;
- 9) on the conditions for employees' representatives to carry out their activities;
- 10) on creation of the conditions for the activities of the trades union;
- 11) on insurance of employees;
- 12) on control over fulfilment of the collective bargaining agreement and the procedure for introducing amendments and supplements thereto;
- 13) on prevention of employment contract termination on the initiative of the employer for strike reasons;
- 14) on liability of employees and of the employer for damage inflicted thereby;
- 15) on liability of the parties for fulfilment of the collective bargaining agreement;
- 16) on voluntary occupational pension contributions;
- 17) other issues determined by the parties.

3. The collective bargaining agreement shall not create a worse position for employees compared to the labour legislation, general, branch and regional agreements. Such provisions shall be deemed null and void.

Article 285. Terms and sphere of operation of the collective bargaining agreement

1. A collective bargaining agreement shall be concluded for the term decided by the parties.

2 A collective bargaining agreement shall come into effect from the time of its signing, unless its provisions envisage otherwise, and shall be binding on the parties.

3. The collective bargaining agreement shall apply to the employer and the employees of the organisation on whose behalf the collective bargaining agreement was concluded and to employees that accede thereto on the basis of a written application.

4. A collective bargaining agreement shall remain in force during a period of reorganisation (merger, absorption, split-up, spin-off and transformation) of an organisation.

5. In the event of change of owner of the assets of an organisation, the collective bargaining agreement shall remain in effect for a period of three months. During this period, the parties shall have the right to launch negotiations on conclusion of a new collective bargaining agreement or retention, amendment and supplementation of the existing one.

6. In the event of liquidation of the organisation or its being declared bankrupt, the collective bargaining agreement shall be vitiated from the time of termination of the employment contracts with all the employees.

Article 286. Liability of the parties for failure to fulfil the collective bargaining agreement

For failure to fulfil the obligations envisaged by the collective bargaining agreement, the parties shall be held liable in accordance with the collective bargaining agreement and the laws of the Republic of Kazakhstan.

Article 287. Guarantees and compensation for negotiation time

Invited experts and specialists shall be paid for their labour under an employment contract concluded with them by employers or employees' representative bodies.

The members of employees' representative bodies participating in the collective bargaining negotiations may not, during the period of said negotiations, be dismissed on the initiative of the employer without the consent of the relevant representative body (except for in the event of liquidation of the organisation).

Chapter 32. CONSIDERATION OF COLLECTIVE LABOUR DISPUTES

Article 288. Emergence of a collective labour dispute

1. A collective labour dispute shall be deemed to have arisen from the day of written notification of the employer of the employees' claims, approved by resolution of the general meeting (conference) or

from the day on which the period indicated in article 290 of this Code expires, in the event that the employer or association of employers does not give notification of their resolutions.

2. Collective labour disputes shall be resolved by means of mediation procedures and (or) in a court of law.

Article 289. Procedure for drawing up and announcing the claims of the employees

1. Claims of employees for establishment and amendment of working conditions and labour compensation, conclusion, amendment and fulfilment of collective bargaining agreements and agreements between employees and the employer or association of employers shall be formulated and approved by a general meeting (conference) of employees attended by at least half the employees of the organisation by a simple majority of the votes of the participants in the meeting (conference).

2. The employees' claims shall be set out in writing and shall be sent to the employer or associations of employers within a period of three calendar days following the holding of the general meeting (conference) of employees.

3. In the event that the given claims are put forward by employees of different employers, these claims may be lodged by branch or regional associations of trades union or other individuals and (or) legal entities authorised by the employees.

4. The employer or association of employers shall refrain from any intervention capable of impeding the holding of the general meeting (conference) of employees on putting forward their claims.

Article 290. Consideration of employee claims

The employer or association of employers shall consider claims entered by employees within a maximum of seven calendar days from their receipt and shall take steps to settle them and, if it is not possible to settle them, inform the employees of their decisions and proposals in writing, indicating their representatives for subsequent consideration of arising disagreements.

Article 291. Mediation procedures

1. If employee claims cannot be settled in the manner envisaged in article 290 of this Code, they shall be considered by mediation procedures.

Claims rejected or only partially satisfied by the employer or association of employers (their representatives) shall initially be considered by a mediation commission, and if agreement cannot be reached by said commission, then by a labour tribunal.

2. At any stage in the consideration of a collective labour dispute, the parties may engage a conciliator. The conciliation procedure is independent of mediation procedures in a mediation commission or labour tribunal and may run in parallel thereto.

Article 292. The mediation commission

1. A mediation commission shall be set up by the parties within a period of three calendar days of the employer or association of employers (their representatives) informing or failing to inform the employees (their representatives) of their decision or of the report on disagreements being drawn up in the course of collective bargaining negotiations.

2. The mediation commission shall be formed of representatives of the parties to the collective labour dispute on a parity basis. The decision to set up a mediation commission shall be executed as an act of the employer and a resolution of the employees' representatives.

3. The mediation commission shall consider the claims entered by the employees (their representatives) within a maximum of seven calendar days of its establishment. The procedure for consideration of the claims by the mediation commission and prolongation of the given period shall be determined on agreement between the parties and drawn up in a report.

4. In the process of the mediation procedures, the mediation commission shall consult with the employees (their representatives), the employer, the association of employers (their representatives), state authorities and other interested parties.

5. The commission shall adopt its decision on the basis of agreement between the parties. Said decision shall be drawn up in a report, signed by the representatives of the parties, and shall be binding on the parties.

6. If the mediation commission is unable to reach a consensus, it shall cease its deliberations and resolution of the dispute shall be referred to a labour tribunal.

Article 293. The labour tribunal

1. A labour tribunal shall be set up by the parties to the collective labour dispute within a period of five calendar days of termination of the work of the mediation commission, with participation by members of the republican, branch or regional commission for regulating socio-labour relations.

2. The numerical strength of the labour tribunal, its members and the procedure for considering the labour dispute shall be determined by agreement between the parties. The labour tribunal shall consist of at least five members. The labour tribunal shall include representatives of public associations, the state labour inspector, specialists, experts and other persons.
3. The chairman of the labour tribunal shall be elected by the parties from among the members of the tribunal.
4. A collective labour dispute shall be considered by a labour tribunal with mandatory participation by representatives of the parties to the collective labour dispute and, if necessary, also with the participation of representatives of other interested parties.
5. The procedure for consideration of the dispute shall be determined by the labour tribunal and the parties to the collective labour dispute shall be informed thereof.
6. The labour tribunal shall adopt its decision within a maximum of seven calendar days from the day of its creation by a simple majority of the votes of the tribunal members. If the votes of the members of the labour tribunal are equally divided, the chairman shall have the deciding vote. The decision shall be reasoned, set out in writing and signed by all the members of the tribunal.
7. In the event that the parties to the collective labour dispute are unable to reach an agreement in the mediation commission in organisations in which strikes are prohibited or restricted by law, formation of a labour tribunal shall be mandatory.
8. The decision of the labour tribunal shall be binding on the parties to the collective labour dispute.

Article 294. Consideration of a collective labour dispute with the participation of a conciliator

1. The procedure for consideration of a collective labour dispute with the participation of a conciliator is determined by agreement between the parties to the collective labour dispute.
2. As conciliators, the parties shall appoint independent organisations and persons. A republican, branch or regional commission for regulation of socio-labour relations might, with the consent of the parties to the collective labour dispute, engage heads and employees of central and local executive authorities, associations and other public bodies, employers and independent experts in the work to resolve collective labour disputes.

In all cases of election of conciliators, written consent to the mediation must be received.

Article 295. Consequences of agreement being reached by the parties on the collective labour dispute

1. In all cases when agreement is reached between the parties to the collective labour dispute on its resolution with or without the participation of a conciliator, incomplete mediation procedures are halted and the conditions of the agreement between the parties are considered as the conditions of the resolution of the dispute.

Agreements achieved by the parties to the collective labour dispute shall be drawn up in writing.

2. Achievement of an agreement between the parties on resolution of the dispute shall entail an end to a strike, if declared.

Article 296. Guarantees in connection with settlement of a collective labour dispute

The members of the mediation commission during their participation in the negotiations to resolve a collective labour dispute shall be released from their main jobs and shall retain their average wage.

Employees' representatives and associations thereof participating in resolving a collective labour dispute may not, during the period of resolution of the collective labour dispute, be subjected to disciplinary sanctions or transferred to other work and the employment contracts with them may not be cancelled on the initiative of the employer without the prior consent of the body authorised to represent them.

Article 297. Obligations of the parties and mediation bodies in settling collective labour disputes

1. None of the parties shall have the right to refuse to participate in medication procedures.

2. The parties shall be notified in writing of disagreements in a collective labour dispute not resolved by the mediation commission or labour tribunal.

3. If disagreements between the parties to the collective labour dispute cannot be resolved by reason of inadequate powers on the part of the employer's representative, the employees' claims shall be submitted to the owners of the assets, the founders of (participants in) or shareholders in organisations, including organisations located on the territory of the Republic of Kazakhstan, owners of property that are foreign physical or legal entities or organisations with foreign participation.

4. If the employees disagree with the results of the procedures indicated in clauses 2 and 3 of this article, they shall have the right to use all the other methods envisaged by law for protecting their interests, up to and including strikes.

Article 298. The right to strike

1. Employees may decide to call a strike if mediation procedures have failed to resolve the collective labour dispute, as well as in cases when the employer refuses to participate in the mediation procedures or does not fulfil the agreement achieved in the course of resolution of the collective labour dispute.

2. A decision to call a strike shall be taken at a meeting (conference) of employees (their representatives) attended by at least half the total number of employees of the organisation and shall be deemed to have been adopted if it is supported by at least two-thirds of the votes of the participants in the meeting (conference).

3. A strike shall be headed by a body authorised by the employees (their representatives) (strike committee). In the event of a strike being declared by the employees (their representatives) of several employers with identical claims, it may be headed by a united body formed of equal numbers of representatives of these employees.

4. Participation in a strike shall be voluntary. No-one may be compelled to participate or refuse to participate in a strike.

5. Anyone forcing employees to participate in or refuse to participate in a strike shall be held liable in the manner established by the laws of the Republic of Kazakhstan.

Article 299. Announcement of a strike

1. The employer or association of employers (their representatives) shall be given written notice by the authorised body indicated in clause 3, article 298 of this Code of the initiation of a strike and its possible duration at least fifteen days in advance.

2. The decision to call a strike shall indicate:

1) the list of disagreements between the parties constituting the grounds for calling the strike;

2) the time, date and place of the beginning of the strike, its duration and anticipated number of participants;

3) the name of the body heading the strike, the employees' representatives authorised to participate in mediation procedures;

4) proposals concerning the minimum amount of necessary work (services) to be performed during the strike period.

Article 300. Powers of the body heading the strike

1. The body heading the strike shall act within the bounds of the rights granted thereto by this Code and on the basis of the powers entrusted thereto by the employees (their representatives).

2. The body heading the strike shall have the right:

1) to represent the interests of the employees in interrelations with the employer, association of employers (their representatives), the state, trades unions, other legal entities and officials on resolution of the claims put forward;

2) to receive from the employer or association of employers (their representatives) information on matters affecting the interests of employees;

3) to have the mass media cover the course of consideration of the employees' claims;

4) to engage experts to give their opinions on matters of dispute;

5) to call off a strike with the consent of the employees (their representatives).

3. For a previously suspended strike to be renewed, it is not necessary for the dispute to be reconsidered by the mediation commission, conciliator or labour tribunal. The employer or association of employers (their representatives) and the body for regulation of labour disputes shall be given at least three working days' advance notice of renewal of the strike.

4. The powers of the body heading the strike shall terminate when the parties to the collective labour dispute sign an agreement settling it, as well as in the event of the strike being declared illegal.

5. In exercising its powers, the body heading the strike shall not have the right to pass decision relating to the terms of reference of the employer, state bodies and public associations.

Article 301. Obligations of the parties to the collective labour dispute during a strike

During a strike, the parties to the collective labour dispute are required to continue resolving this dispute by means of mediation procedures.

The employer, state authorities and the body heading the strike are required to take any measures under their control to ensure, during the strike, maintenance of public order, safekeeping of the organisation's assets and protection of employees, as well as of operation of machinery and equipment if a halt thereto would directly jeopardise people's life and health.

Article 302. Guarantees to employees in connection with a strike being called

1. Organisation of or participation in strikes (with the exception of the cases envisaged by clause 1, article 303 of this Code) shall not be deemed to constitute violation of labour discipline by the employee and shall not entail application of the disciplinary measures envisaged by this Code.
2. During a strike, the employee shall retain his job (position), the right to payment of social insurance contributions, and his service record, and shall be guaranteed the other rights deriving from labour relations.

Employees shall not be paid their wages during a strike, apart from cases when the strike is called in connection with non-payment or late payment of wages.

Article 303. Illegal strikes

1. Strikes shall be declared illegal:

- 1) in periods of martial law or emergencies or special measures in accordance with the legislation on emergencies; in bodies and organisations of the Armed Forces of the Republic of Kazakhstan, other military units and organisations in charge of ensuring the country's defence, protection of the state, emergency response and fire fighting, prevention or elimination of emergencies; in law-enforcement bodies; at hazardous production facilities, at first aid stations and in ambulance services;
- 2) in railway transport, civil aviation and healthcare organisations, organisations providing for domestic services to the population (public transport, supply of water, electric power, heat and communications), at the continuously operating production units where suspension of activities would have serious and dangerous consequences, in observance of the conditions indicated in clause 2 of this article;
- 3) in the event of a strike being called on disregard of the time periods, procedures and requirements envisaged by this Code;
- 4) in cases when this creates a real threat to people's life and health;

5) in other cases envisaged by the laws of the Republic of Kazakhstan.

Given any of the grounds indicated in this clause, the public prosecutor shall have the right to halt the strike before a court passes a corresponding ruling.

2. In railway transport, civil aviation and healthcare organisations, organisations providing for domestic services to the population (public transport, supply of water, electric power, heat and communications), a strike may be called provided the range and volume of the corresponding services required by the population remain available, these being determined on the basis of a prior agreement with the local executive authority.

A strike may be called in a continuously operating production unit only on the condition that continued continuous operation of the main equipment and mechanisms is provided for.

3. A ruling recognising a strike as illegal shall be issued by a court of law in accordance with the laws of the Republic of Kazakhstan.

4. A ruling recognising a strike as illegal shall be issued by a court of law on the basis of an application submitted by the employer or the public prosecutor.

The employees shall be informed of the court ruling through the body heading the strike, which shall immediately notify all the strike participants of the given court ruling.

A court ruling recognising a strike as illegal that has come into legal force shall be subject to immediate execution.

In the event of a direct threat being created to people's life and health, the public prosecutor or a court of law shall have the right to halt the strike before a corresponding ruling is passed.

5. The body heading the strike shall have the right to appeal the court ruling in the manner established by the laws of the Republic of Kazakhstan.

Article 304. Consequences of a strike being declared illegal

If a strike is declared illegal by a court of law, the employer may impose disciplinary liability on the employees participating in the organisation and holding of the strike.

Article 305. Prohibition of lockouts

In the process of the settlement of a collective labour dispute, including during a strike, it is prohibited to enforce a lockout, that is, for employment contracts with employees to be cancelled on the initiative of the employer in connection with their participation in the collective labour dispute or in the strike.

SECTION 5. LABOUR PROTECTION AND LABOUR SAFETY

Chapter 33. STATE MANAGEMENT IN THE SPHERE OF LABOUR PROTECTION AND LABOUR SAFETY

Article 306. The main state policies in the sphere of labour protection and labour safety

State policy in the sphere of labour protection and labour safety is orientated on:

- 1) development and adoption of regulatory and legal acts of the Republic of Kazakhstan in the sphere of labour protection and labour safety;
- 2) development of state, branch (sectoral) and regional programmes in the sphere of labour protection and labour safety;
- 3) creation and implementation of systems of economic incentives to activities involving development and improvement of working conditions, labour protection and labour safety, development and introduction of safe equipment and technologies, production of means of labour safety, personal and collective protection of employees;
- 4) exercise of monitoring in the sphere of labour protection and labour safety;
- 5) performance of scientific studies of labour protection and labour safety problems;
- 6) establishment of a unified procedure for registering industrial accidents and occupational diseases;
- 7) state supervision and control over observance of the legislation of the Republic of Kazakhstan in the sphere of labour protection and labour safety;
- 8) regulatory securing of the procedure for exercising public control over observance of the rights and lawful interests of employees in the sphere of labour protection and labour safety in organisations;
- 9) protection of the lawful interests of employees suffering from industrial accidents and occupational diseases, as well as members of their families;

- 10) establishment of labour compensation for heavy work and work under harmful (particularly harmful) or hazardous working conditions not eliminated by a modern technical level of production and labour organisation;
- 11) dissemination of advanced domestic and foreign experience of work to improve working conditions and labour safety;
- 12) training and further training of experts in labour protection and labour safety;
- 13) organisation of state statistical reporting on industrial injuries and occupational diseases;
- 14) provision for the functioning of a unified system in the sphere of labour protection and labour safety;
- 15) international co-operation in the sphere of labour protection and labour safety.

Article 307. State management, control
and supervision in the sphere of labour protection
and labour safety

State management, control and supervision in the sphere of labour protection and labour safety shall be exercised by the Government of the Republic of Kazakhstan, by the state labour authority and other competent state authorities in accordance with their terms of reference.

Article 308. Requirements on labour protection and labour safety

1. Requirements on labour protection and labour safety shall be established by regulatory and legal acts of the Republic of Kazakhstan and shall contain rules, procedures and criteria designed to preserve the life and health of employees in the process of their labour activities.
2. Requirements of labour protection and labour safety shall be binding on both employers and employees in performance of their activities on the territory of the Republic of Kazakhstan.

Article 309. Monitoring and assessment of risks
in the sphere of labour protection and labour safety

For the purpose of comprehensive assessment of working conditions in the work place, reducing the incidence of industrial injuries and preventing industrial accidents, the state labour authority and its territorial subdivisions shall organise risk monitoring and assessment in the sphere of labour protection and labour safety.

Chapter 34. GUARANTEES OF THE RIGHTS OF EMPLOYEES IN THE SPHERE OF LABOUR PROTECTION AND LABOUR SAFETY

Article 310. Guarantees of the rights to labour protection and labour safety on conclusion of an employment contract

1. The employment contract shall provide an accurate description of the working conditions, including harmful and (or) hazardous production factors, and shall indicate the guarantees, benefits and compensation payments for work under such conditions envisaged by the legislation of the Republic of Kazakhstan and the collective bargaining agreement.

2. Employment contracts with employees engaged in heavy work, work under harmful (particularly harmful) and (or) hazardous working conditions, as well as in work underground, shall be concluded after they have undergone a preliminary medical examination and the absence has been determined of any contraindications with respect to their state of health, in accordance with the requirements established by regulatory and legal acts of the state authority in the sphere of healthcare.

Article 311. Guarantees of the rights of employees to the protection and safety of labour in the process of labour activities

1. Labour protection conditions at the work place shall comply with the requirements of state standards and the labour protection and labour safety rules.

2. During time of work suspension as a consequence of violation by the employer of labour protection and labour safety requirements, the employee's job (position) and average wage shall be retained for him.

3. Refusal by an employee to fulfil work in the event of an immediate threat arising to his life and health or other people shall not entail imposition on him of either disciplinary and (or) material liability.

4. In the event of the employer failing to provide the employee with means of personal and (or) collective protection and special clothing, the employee shall have the right to halt performance of his job duties, while the employer shall pay the average wage of the employee for any idle time caused thereby.

5. In the event of harm being inflicted on the life and health of the employee in performance of his job duties, recompense shall be made for the harm inflicted in the manner and on the conditions envisaged by this Code and by the civil legislation of the Republic of Kazakhstan.

Article 312. Mandatory medical examination of employees

1. The employer shall, at its own expense, arrange for periodical medical examinations and inspections of employees engaged in heavy work or work under harmful (particularly harmful) and (or) hazardous working conditions, in the manner established by the legislation of the Republic of Kazakhstan.

2. Employees engaged in work involving increased danger, operation of machinery and equipment, shall undergo pre-shift medical certification. The list of occupations requiring pre-shift medical certification shall be determined by the state healthcare authority.

Article 313. Training and instruction in and testing of employees on labour protection and labour safety

1. Training and instruction in and testing of employees on labour protection and labour safety shall be performed by the employer at its own expense.

2. The procedure and time schedule for training and instruction in and testing of employees on labour protection and labour safety shall be determined by the state labour authority on agreement with other relevant state authorities in the corresponding spheres of activity.

3. Persons hired to work shall undergo mandatory preliminary training, organised by the employer, with subsequent obligatory testing of their knowledge of labour protection and labour safety. Employees that have not undergone preliminary training and instruction in and testing on labour protection and labour safety shall not be allowed to work.

4. Management and production personnel of organisations responsible for providing for labour protection and labour safety shall periodically, at least once every three years, undergo training in and testing on labour protection and labour safety on further training courses in appropriate educational institutions.

Chapter 35. RIGHTS AND OBLIGATIONS OF EMPLOYEES AND OF THE EMPLOYER IN THE SPHERE OF LABOUR PROTECTION AND LABOUR SAFETY

Article 314. Rights of the employee to labour protection and labour safety

The employee shall have the right to:

- 1) a work place equipped in accordance with the labour protection and labour safety requirements;
- 2) provision with sanitary and amenity premises, means of personal and collective protection, and special clothing in accordance with the labour protection and labour safety requirements, as well as with the employment contract and collective bargaining agreement;
- 3) appeal to the state labour authority and its territorial subdivisions to inspect the working conditions and labour safety at his place of work;
- 4) participation personally or through his representative in investigation and consideration of matters relating to improving working conditions, labour protection and labour safety;
- 5) refuse to perform work in a situation jeopardising his health or life, notifying his immediate superior or the employer in writing to this effect;
- 6) the education and occupational training required for safe performance of his job duties, in the manner established by the legislation of the Republic of Kazakhstan;
- 7) receipt of reliable information from the employer on the work place and the territory of the organisation, on the working conditions, labour protection and labour safety, on any threat to life and health, as well as on measures for his protection against the impact of harmful (particularly harmful) and (or) hazardous production factors;
- 8) retention of his average wage during halts to the functioning of the organisation owing to failure to comply with the labour protection and labour safety requirements;
- 9) appeal against unlawful actions on the part of the employer in the sphere of labour protection and labour safety.

Article 315. Obligations of the employee in the sphere of labour protection and labour safety

The employee shall:

- 1) immediately notify his immediate superior of any accident occurring at work, any signs of occupational disease (poisoning), or any situation jeopardising human life and health;

- 2) undergo mandatory periodical medical examinations and pre-shift medical certification, as well as medical certification for transfer to other work for production purposes or in the event of signs of occupational disease;
- 3) apply and use for their designated purpose means of personal and collective protection provided by the employer;
- 4) carry out therapeutic and health restoration measures prescribed by medical institutions if financed by the employer;
- 5) observe the requirements of the standards, rules and instructions on labour protection and labour safety, as well as the employer's requirements on safe performance of work at the work place.

Article 316. Rights of the employer in the sphere of protection and labour safety

The employer shall have the right:

- 1) to give incentives to employees for creating favourable working conditions at their work places and making rationalisation proposals for creating safe working conditions;
- 2) suspend from work and impose disciplinary liability on employees violating the labour protection and labour safety requirements in the manner established by this Code.

Article 317. Obligations of the employer in the sphere of labour protection and labour safety

1. The employer shall:

- 1) undertake measures to preclude any risks in the work place and in manufacturing processes by means of prevention, replacement of manufacturing equipment and technological processes with safer ones;
- 2) provide employees with training and instruction in labour protection and labour safety;
- 3) undertake organisational and technical labour protection and labour safety measures;
- 4) provide instruction and documents on safe performance of the manufacturing process and work;

- 5) undergo verification of knowledge of labour protection and labour safety and organise testing of managers and experts in accordance with the rules approved by the state labour authority;
- 6) create the necessary sanitary and hygiene conditions for employees, provide for repairs to special clothing and footwear of employees, supply them with means of protective treatment, washing and disinfectant, a first aid kit, milk, therapeutic and healthy meals in accordance with the standards established by the state labour authority;
- 7) provide the state labour authority and its territorial subdivisions, officials of the sanitary and epidemiological service, and representatives of the employees, at their written request, with the necessary information on the state of working conditions, labour protection and labour safety in organisations;
- 8) fulfil the directives of the state labour inspectors;
- 9) register, record and analyse industrial accidents and cases of occupational disease;
- 10) with the participation of employees' representatives, perform periodical, at least once every 5 years, certification of production facilities with respect to working conditions, as well as mandatory certification after renovation, modernisation, installation of new equipment or technologies, in accordance with the rules approved by the state labour authority;
- 11) provide for investigation of industrial accidents in the manner established by the legislation of the Republic of Kazakhstan;
- 12) insure liability for harm caused to the health and life of the employee in performance thereby of his job duties;
- 13) notify the relevant territorial subdivision of the state authority in the sphere of sanitary and epidemiological welfare of the population of any incidences of acute poisoning;
- 14) provide safe working conditions;
- 15) carry out, at its own expense, periodical (during employees' working lives) medical examination and pre-shift medical certification of employees in cases envisaged by the legislation of the Republic of Kazakhstan, as well as in the event of transfer to different work involving changed working conditions or of the appearance of signs of occupational disease;
- 16) take urgent measures to prevent development of emergency situations and the impact factors capable of causing injury to other persons.

2. The employment contracts or collective bargaining agreement may, in consideration of the specific nature of the activities and types of work, and the existence of sources of increased danger, envisage supplementary obligations of the employer.

Article 318. Financing of labour protection and labour safety measures

Labour protection and labour safety measures shall be financed by the employer and from other sources not prohibited by the legislation of the Republic of Kazakhstan.

Employees shall not bear expenditures for these purposes.

The volume of the funds shall be determined by the collective bargaining agreement.

Chapter 36. ORGANISATION OF LABOUR PROTECTION AND LABOUR SAFETY

Article 319. Adoption of regulatory and legal acts in the sphere of labour protection and labour safety

1. Regulatory and legal acts in the sphere of labour protection and labour safety shall establish organisational, technical, technological, sanitary and hygiene, biological, physical and other standards, rules, procedures and criteria designed to protect the life and health of employees in the process of their labour activities.

2. Adoption of regulatory and legal acts in the sphere of labour protection and labour safety shall be the responsibility of relevant state authorities in the manner established by the Government of the Republic of Kazakhstan.

3. Labour protection and labour safety instructions shall be drawn up and approved by the employer in the manner approved by the state labour authority.

Article 320. Requirements on labour protection and labour safety during design, construction and operation of production facilities and means of production

1. Design, construction and reconstruction of production buildings and structures, development and use of technologies, development and manufacture of machines, mechanisms and equipment not meeting labour protection and labour safety requirements shall be prohibited.

2. New and renovated production facilities, means of production or other types of output may not be accepted and started up if they do not comply with the labour protection and labour safety requirements.

3. Production facilities shall be subject to mandatory periodical certification with respect to working conditions in the manner established by the state labour authority.

4. Commissioning of a production-purpose facility shall be carried out by the acceptance commission with obligatory participation by the state labour inspector.

Article 321. Work-place protection requirements

1. Buildings (structures) accommodating work places shall, in their structure, comply with their functional purpose and the labour protection and labour safety requirements.

2. Working equipment shall comply with the protection standards established for the given type of equipment, bear appropriate warning signs and be provided with barriers or protective devices to ensure protection of employees in the work place.

3. Emergency routes and exits for employees from premises shall remain free and lead to the open air or a safe zone.

4. Danger zones shall be clearly marked. If work places are located in danger zones, in which, in view of the nature of the work, there exist a danger to the employee or of falling objects, such places shall be equipped, when possible, with appliances preventing unauthorized access to these zones. Safe conditions must be provided for movement of pedestrians and means of transport across the territory of the organisation.

5. Employees shall have means of personal protection for performing work at hazardous production facilities (sectors), including at heights, underground, in open chambers, on the shelf of seas and internal waters.

6. During working hours, the temperature, natural and artificial lighting, and ventilation on the premises accommodating the work places shall comply with safe working conditions.

7. Employees shall be permitted to work under harmful working conditions (dustiness, gaseousness and other factors) after the employer has ensured safe working conditions.

Chapter 37. INVESTIGATION AND RECORDING OF INDUSTRIAL ACCIDENTS AND OTHER HARM TO THE HEALTH OF EMPLOYEES IN CONNECTION WITH THEIR LABOUR ACTIVITIES

Article 322. General provisions on investigation and recording of industrial accidents

1) In accordance with this Code, incidences of harm caused to the health of employees connected with their labour activities and leading to disability or death shall be subject to investigation and recording, as well as:

1)harm to students of educational institutions providing elementary occupational and post-graduate occupational education programmes during their job practice periods;

2)servicemen in the armed forces engaged to perform work not connected with military service;

3)persons engaged to work by court sentence;

4)personnel of paramilitary search-and-rescue units, paramilitary security units, members of voluntary teams for elimination of the consequences of accidents, natural disasters and saving of human life and property.

2. Investigation and recording shall encompass industrial accidents, industrial injuries and other harm to the health of employees connected with fulfilment of their job duties or performance of other actions, on their own initiative, in the interests of the employer, resulting in disability or death, if they occur:

1)before the beginning or after the end of working hours during preparation and arrangement of the work place, tools, means of personal protection and so on;

2)during working hours at the work place or during a business trip or at another place presence at which was dictated by performance of job or other duties, is connected with an assignment from the employer or an official of the organisation;

3)as a result of the impact of hazardous and (or) harmful production factors;

4)during working hours en route to a place of work by assignment of the employer by an employee whose activities involve movement from one serviced facility to another;

5)on means of transport of the employer during fulfilment by the employee of his job duties;

Source: World Intellectual Property Organization

<http://www.wipo.int>

6) on his personal means of transport given the written consent of the employer to use it for official journeys;

7) during the employee's presence, on the employer's instructions, on the territory of his own or another organisation, as well as in the course of protecting the property of the employer or performing actions, on his own initiative, in the interests of the employer.

3. The following shall not be registered as industrial injuries or other harm to the health of employees at the work place, if the investigation objectively establishes that they occurred:

1) during performance by the victim, on his own initiative, of work or other actions not included in the employee's functional obligations and not connected with the interests of the employer, including during inter-shift rest and meal breaks during rotational work, as well as under the influence of alcohol, toxic or narcotic substances (or their analogues);

2) as a result of intentional (deliberate) infliction of harm to his health or while the victim was committing a criminal offence;

3) as a result of a sudden deterioration in the health of the victim, confirmed by a medical opinion, not connected with the impact of hazardous and (or) harmful production factors.

4. The victim or witness shall immediately notify the employer or work organiser of each accident. Responsible officials of healthcare organisations shall inform employers and territorial subdivisions of the state labour inspectorate of each first visit with an industrial injury or other work-related harm to the health of employees, as well as the state authority in the sphere of the sanitary and epidemiological welfare of the population of cases of acute occupational disease (poisoning).

5. Responsibility for organising the investigation into, formalisation and registration of industrial accidents shall be borne by the employer.

Article 323. Obligations of the employer in the event of an industrial accident

1. The employer shall:

1) arrange provision of first aid to the victim and, if necessary, his transportation to a healthcare institution;

2) take urgent measures to prevent development of an accident and impact on other persons of the factors responsible for the accident;

3) until the investigation is launched, maintain the status at the site of the accident (the state of the equipment, mechanisms, and tools) as it was at the time it occurred, on the condition that this does not jeopardise the life and health of other persons and interruption of the production process does not lead to an accident, and shall photograph the site of the accident;

4) immediately inform the close relatives of the victim about the industrial accident and send a notification to the state authorities and organisations stipulated in this Code and other regulatory and legal acts;

5) provide for investigation of industrial accidents and record them in accordance with this chapter;

6) provide members of the special investigation commission with access to the site of the industrial accident for the purpose of investigating it;

7) register, record and analyse industrial accidents and occupational diseases.

2. The employer shall inform the following immediately, in the format established by the state labour authority, of any industrial accident:

1) territorial subdivisions of the state labour inspectorate under the state labour authority;

2) local bodies for prevention and elimination of emergencies in the event of accidents occurring at hazardous industrial facilities;

3) the local state authority in the sphere of sanitary and epidemiological welfare of the population of incidences of occupational disease or poisoning;

4) representatives of the employees;

5) the insurance organisation with which the agreement on the employer's civil law liability for harm to the life and health of employees is concluded.

In the event of an accident subject, in accordance with this chapter, to special investigation, the employer shall notify:

1) the law-enforcement agency at the location of the accident;

2) the authorised bodies for production and departmental control and supervision.

3. During an investigation of an industrial accident, the employer shall, at its own expense and the demand of the commission, provide for:

- 1) performance of technical calculations, laboratory studies, tests and other expert works and shall engage specialists and experts for this purpose;
- 2) photographing of the site of the accident and the damaged facilities, drawn plans, drawings and diagrams;
- 3) availability of means of transport, official premises, means of communications, special clothing, special footwear, and other means of personal protection required for carrying out the investigation;
- 4) furnishing of:

documents describing the state of the work place, existence of hazardous and (or) harmful production factors (plans, drawings and diagrams and, if necessary, photo and video materials of the site of the accident, and so on);

excerpts from the registration journals of training sessions and reports on tests of the knowledge of the victims on labour protection and labour safety, reports on questioning of witnesses to the accident and officials, explanations from the victims and expert opinion provided by specialists;

results of laboratory testing and experiments;

a medical conclusion on the nature and severity of the harm caused to the health of the victim or the reason for his death, on presence (absence) of signs of the victim having been under the influence of alcohol, narcotics or toxic substances;

copies of documents confirming issue to the victim of special clothing, special footwear and other means of personal protection;

excerpts from directives issued previously at the given production unit (facility) by state labour inspectors and officials of the territorial body for state supervision (if the accident occurred in an organisation or at a facility subject to control by said body), as well as excerpts from submissions by public labour inspectors on eliminating disclosed violations of the rules and regulations of the requirements on labour protection and labour safety;

other documents at the discretion of the commission and relating to consideration of the case.

Article 324. Procedure for investigating industrial accidents

1. Investigation of industrial accidents, with the exception of cases subject to special investigation, shall be carried out by a commission set up by an act of the employer within the twenty-four hours following the event, as follows:

chairman – head of the organisation (production service) or his deputy;

members – head of the labour protection and labour safety service organisation and a representative of the employees.

The official directly responsible for labour protection in the relevant sector where the accident took place shall not be included on the investigation commission.

2. Subject to special investigation shall be the following:

1) accidents with a grave or fatal outcome;

2) group accidents involving two or more employees simultaneously, irrespective of the severity of the victims' injuries;

3) group incidences of acute poisoning.

3. In the event of the employer being an individual, investigation of the industrial accident shall be carried out by the employer or his authorised representative, the representative of the employees, and an expert on labour safety, who may be engaged to take part in the investigation into the accident on a contractual basis.

4. In the event of acute poisoning, the investigation commission shall include representatives of the state authority for sanitary and epidemiological welfare of the population.

5. A representative of the insurance organisation with relevant contractual relations with the employer or the victim shall be entitled to participate in the work of the commission.

6. The period for investigation of the accident shall be no more than ten working days from establishment of the commission.

7. An accident involving people undergoing production practice, students in general education and professional schools or higher educational institutions shall be investigated by a commission consisting of the head of the organisation on the territory of which the accident occurred, with the participation of the employer and a representative of the victim.

8. An accident involving an employee of an organisation located and operating on the territory of another organisation or an employee sent to another organisation to perform a production assignment (official or contractual duties) shall be investigated directly by the employer with the participation of a responsible representative of the organisation on the territory of which the accident occurred.

9. An accident involving an employee during performance of a combined job shall be investigated and recorded by the employer, on the territory of which or on the instructions of which the work was performed.

10. Accidents occurring as a result of accidents involving means of transport shall be investigated on the basis of the investigation materials of the road traffic police.

The road traffic police shall, within a period of five days of occurrence of the accident, at the request of the chairman of the commission for investigation of accidents, furnish copies of the investigation materials.

11. In each case of investigation of an industrial accident, the commission shall identify and question witnesses of the accident and the persons to blame for violation of the requirements on labour protection and labour safety, and shall obtain the requisite information from the employer and, if possible, an explanation from the victim.

12. Accidents about which the employer is not informed in a timely manner or as a result of which the onset of the disability is not immediate (irrespective of the time period involved) shall be investigated at the request of the victim (or his representative) or on the instructions of the state labour inspector within a period of ten days from the day of registration of the request or receipt of the instruction.

13. On the basis of the collected documents and materials, the commission establishes the circumstances of and reasons for the accident, determines the link between the accident and the production activities of the employer and, correspondingly, whether the victim's presence at the scene of the accident was explained by fulfilment thereby of his job duties, qualifies the accident as an industrial accident or as an accident not connected with production, determines who was responsible for violation of the labour protection and labour safety requirements, and for elimination of the reasons for and prevention of industrial accidents.

14. The working conditions of the accident investigation commission at secure facilities shall be determined in consideration of the specifics governing access to and presence at these facilities.

15. For every accident connected with production and entailing loss of working capacity of an employee (employees), in accordance with a medical opinion (recommendation), an accident report shall be drawn up by the state labour authority in the requisite number of copies (for each victim separately).

For cases of poisoning confirmed in the established manner by a healthcare institution, an accident report shall also be drawn up irrespective of whether they result in loss of working capacity or do not.

Article 325. Specifics of special investigation of industrial accidents

1. Special investigation of an accident shall be carried out by a commission set up by the territorial subdivision of the state labour inspectorate as follows:

chairman – state labour inspector;

members – the employer and representative of the employees.

2. Group accidents involving the death of two persons shall be investigated by a commission headed by the chief state labour inspector of the region or city of republican significance.

3. In the event of accidents at hazardous industrial facilities, the commission shall include the state inspector for prevention and elimination of emergencies.

In the event of accidents occurring during man-made emergencies, the special investigation commission shall be chaired by the state inspector for prevention and elimination of emergencies. In this case, the state labour inspector shall be a member of the commission.

4. Investigation of group accidents involving three to five fatalities shall be carried out by a commission set up by the state labour authority and those involving over five fatalities – by the Government of the Republic of Kazakhstan.

5. For resolving issues requiring an expert opinion, the chairman of the special investigation commission shall have the right to set up expert subcommissions from among the experts of organisations, scientific and controlling and supervisory bodies.

6. The results of an investigation into an accident with grave or fatal consequences, a group accidents or a group incidence of acute poisoning of employees shall be drawn up in a special investigation report in the format established by the state labour authority.

7. It is categorically prohibited, without the consent of the chairman of the special investigation commission, for anyone else or any other commission to question witness or conduct parallel investigations into the given accident on the days when the officially appointed commission is working.

8. To end a search for a victim(s) missing as a result of an explosion, accident, destruction and other cases at facilities of an organisation shall be decided by the special investigation commission on the basis of a conclusion by the head of the search and rescue divisions and experts.

Article 326. Documentation of the materials of an investigation in industrial accidents and recording thereof

1. An accident report shall be drawn up and be signed by the heads of the labour protection and labour safety services and subdivisions of the organisation, as well as by the representative of the employees of the organisation, and shall be approved by the employer and the organisation's seal shall be affixed thereto.

2. In cases of poisoning, the accident report shall also be signed by the representative of the state authority in the sphere of sanitary and epidemiological welfare of the population.

If the employer is an individual, the accident report shall be drawn up and signed by the employer and shall be notarised.

3. The report shall be drawn up on the basis of the investigation materials.

If, during the investigation into an industrial accident, the commission establishes that gross negligence was responsible for the harm or the increase therein, the commission shall impose joint and several liability on the parties and shall determine the degree of culpability of the employee and of the employer in percentage terms.

In the event that one of the members of the accident investigation commission does not agree with the conclusions of the commission (the majority), he shall submit his reasoned opinion in writing for inclusion in the investigation materials. He shall sign the special investigation report with the reservation: "see the special opinion".

4. On conclusion of the investigation into each accident, the employer shall, within a maximum of three days, provide the victim or his attorney with the accident report, one copy of the report being sent to the insurance organisation with relevant contractual relations with the employer and another to the state labour inspectorate.

In the event of poisoning, a copy of the report shall also be provided to the state authority in the sphere of sanitary and epidemiological welfare of the population.

5. In the event of disagreement with the result of the investigation or of the accident report not being drawn up in a timely manner, the victim or his attorney or the representative of the employees of the organisation shall have the right to submit an application to the employer, which the latter shall consider within a period of ten days and take a decision on the merits thereof.

6. Disagreements on aspects of the investigation into, reporting on and registration of accidents arising during the investigation between the employer, the employee and the state labour inspector or the state inspector for prevention and elimination of emergencies in cases occurring at the hazardous industrial facilities shall be considered in the order of subordination by the relevant superior chief state labour inspector and (or) in a court of law.

The decision of the superior state labour inspector on aspects of accident investigation shall be drawn up in the form of a conclusion in the format established by the state labour authority.

7. Copies of the materials of the special investigation accident report shall be provided by the employer to the state controlling authorities. In addition, on conclusion of the accident investigation, one copy of the special investigation materials shall be forwarded by the state labour inspector within a period of seven days to the local department of internal affairs, which, in accordance with the legislation, shall adopt a relevant decision and notify of the decision taken within a maximum of twenty days.

8. Each accident report drawn up shall be entered into the registration ledger of industrial accidents and other harm caused to health and shall be included into the statistical report on temporary disability and injuries at the production facility, which shall be signed by the employer and shall be duly submitted to the statistical authorities. The ledger shall be maintained in the format established by the state labour authority.

9. The employer shall, in accordance with the accident reports, submit to the territorial state labour authorities on a monthly basis and in the format established by the statistical authority, information about accidents occurring in the organisation, cumulatively for the relevant period.

10. With respect to industrial accidents that develop over time into the category of serious or fatal accidents, the employer or its representative shall notify the state labour inspectorate and with respect to insurance cases – the executive body of the insurer (at the place of registration of the insurer).

11. Accident investigation materials shall be stored by the organisation for a period of forty five years and, in the event of its liquidation, the accident investigation materials shall be handed over to the state archives at the location of its activities.

12. Industrial accident investigation materials shall include, in addition to the investigation report:

1) information on training and instruction in labour safety taken by the victims, as well as on preliminary and periodical medical examinations;

2) survey reports in the format established by the state labour authority and explanations given by witnesses to the event, as well as those by officials responsible for observance of the labour protection and labour safety requirements;

3) plans, diagrams and photographs of the scene of the accident;

4) extracts from instructions, regulations, orders and other acts regulating labour protection and labour safety requirements, the obligations and liability of officials for ensuring healthy and safe working conditions at the facility and so on;

5) a medical conclusion on the nature and gravity of the damage to the victim's health (the cause of death);

6) results of laboratory and other tests, experiments, expert examinations, analyses and so on;

7) the conclusion (if available) of the chief state labour inspector;

8) information on the material damage inflicted on the employer;

9) the employer's procedure for recompensing the victim (his family members) for the damage caused to his health and for imposing liability on officials guilty of the given event;

10) the list of attached documents.

13. The victim or the representative of the employees shall have the right to acquaint himself with all the accident investigation materials and to take the necessary excerpts therefrom.

Article 327. Control over correct, timely investigation and over recording of accidents

Control over correct and timely investigation and over recording of accidents, as well as performance of measures to eliminate the causes thereof shall be carried out by state labour inspectors within the

Source: World Intellectual Property Organization

<http://www.wipo.int>

scope of their terms of reference by means of verifying and considering complaints, applications and appeals by individuals and checking on organisations. Audits carried out by state labour inspectors within the scope of industrial accident investigations, as well as control exercised over performance of measures to eliminate the causes of accidents, are not subject to registration and recording in accordance with the legislation of the Republic of Kazakhstan on state legal statistics and special registration.

SECTION 6. CONTROL OVER OBSERVANCE OF THE LABOUR LEGISLATION OF THE REPUBLIC OF KAZAKHSTAN

Chapter 38. STATE CONTROL

Article 328. State control over observance of the labour legislation of the Republic of Kazakhstan

1. State control over observance of the labour legislation of the Republic of Kazakhstan in organisations shall be exercised by state labour inspectors.
2. State labour inspectors include:
 - 1) Chief state labour inspector of the Republic of Kazakhstan – head of the state labour inspectorate of the state labour authority of the Republic of Kazakhstan;
 - 2) chief state labour inspectors of the state labour inspectorate – officials of the state labour inspectorate of the state labour authority;
 - 3) chief state labour inspector of the region or city of republican significance – head of regional or city of republican significance territorial subdivisions of the state labour inspectorate of the state labour authority;
 - 4) state labour inspectors – officials of regional or city of republican significance territorial subdivision of the state labour inspectorate.
3. State labour inspectors are, in performance of their official duties, protected by law and guided by the Constitution of the Republic of Kazakhstan, the laws and other regulatory and legal acts of the Republic of Kazakhstan.

4. Persons hampering a state labour inspector in fulfilment of his official duties shall be held liable in accordance with the laws of the Republic of Kazakhstan.

Article 329. Principles of the activities and key tasks of the state labour inspectorate

The activities of the state labour inspectorate shall be performed on the basis of the principles of respect for, observance and protection of the rights and freedoms of employees, legality, objectivity, independence and openness.

The chief tasks of the state labour inspectorate are:

state control over observance in organisations of the labour legislation of the Republic of Kazakhstan;

observance and protection of the rights and freedoms of employees, including the right to safe working conditions;

consideration of appeals, applications and complaints by employees and employers on matters relating to the labour legislation of the Republic of Kazakhstan.

Article 330. Rights of state labour inspectors

In exercising state control over observance of the labour legislation of the Republic of Kazakhstan, state labour inspectors shall have the right:

1) to visit organisations and enterprises unhindered for the purpose of checking on observance of labour legislation;

2) request and receive from employers documents, explanations and information necessary for fulfilment of the functions entrusted to them;

3) to issue instructions and conclusions that are binding on employers, to draw up reports and resolutions on administrative offences and to impose administrative sanctions;

4) to give explanations on matters falling within their terms of reference;

5) to suspend (prohibit) the activities of organisations, individual production units, workshops, sites and work places and operation of equipment and mechanisms in order to disclose their failure to comply with the requirements of the regulatory and legal acts on labour protection and labour safety

for a period of no more than three days, with mandatory submission of a suit to a court of law within the given period;

- 6) to prohibit the issue and use at the work place of special clothing, special footwear and other means of personal and collective protection that do not meet the set requirements thereon;
- 7) seize for analysis samples of special clothing used or treated materials and substances, notifying the employer (his representative) to this effect and drawing up a relevant certificate;
- 8) to investigate industrial accidents in the established manner;
- 9) to issue instructions binding on employers to suspend from work employees that have not undergone training, instruction and testing of knowledge on labour protection and labour safety issues;
- 10) to submit to relevant law-enforcement bodies and courts information, statements of claim and other materials on violations of the labour legislation of the Republic of Kazakhstan and failure by employers to fulfil instructions of state labour inspectors;
- 11) to participate in testing the knowledge of labour protection and labour safety envisaged by the requirements established by the state labour authority;
- 12) to verify fulfilment of special conditions set on issuing permits to hire foreign manpower;
- 13) to exercise control over the completeness and accuracy of performance of internal control by the employer over labour protection and labour safety;
- 14) to exercise other rights envisaged by the legislation of the Republic of Kazakhstan.

Article 331. Obligations of state labour inspectors State labour inspectors

shall:

- 1) exercise control over observance of the labour legislation of the Republic of Kazakhstan;
- 2) carry out timely and quality checks on observance of the labour legislation of the Republic of Kazakhstan;
- 3) inform employers (their representatives) of disclosed violations of the labour legislation for the purpose of introducing measures to remedy them and submit representations on holding the guilty parties liable;

- 4) consider, in a timely manner, applications submitted by employees and employers on issues of the application of the labour legislation of the Republic of Kazakhstan;
- 5) identify the reasons and circumstances leading to violations of the labour legislation, give recommendations on remedying them and reinstating violated labour rights;
- 6) take part in investigations in industrial accidents and occupational diseases;
- 7) gather, analyse and sum up the reasons for violations of the labour legislation, participate in elaborating and adopting ways to implement measures designed to strengthen work to prevent violations of the labour legislation of the Republic of Kazakhstan;
- 8) not divulge information constituting state, official, commercial or other legally protected secrets to which they become party in connection with performance of their job duties;
- 9) carry out explanatory work with respect to application of the labour legislation of the Republic of Kazakhstan;
- 10) interact with individuals and employees' representatives in exercising control in the sphere of labour protection and labour safety.

Article 332. Rights and obligations of the employer during exercise of control by state labour inspectors

1. The employer shall have the right, during exercise of state control over observance of the labour legislation of the Republic of Kazakhstan:
 - 1) to submit to the state labour inspector explanations on the reports on the checks performed thereby;
 - 2) not to furnish information and documents not relevant to the subject of the inspection being performed;
 - 3) to appeal against the report on the results of the inspection and actions (inaction) on the part of the state labour inspector in the manner established by the legislation of the Republic of Kazakhstan.
2. The employer shall, during exercise of state control over observance of the labour legislation of the Republic of Kazakhstan:
 - 1) provide the state labour inspector with unimpeded access (visits) to the territory and premises of the facility being checked;

2) provide the state labour inspector and representatives of the organisation's employees performing the inspection with documents (information) in hard copy and on electronic media for inclusion with the report on the results of the inspection, as well as access to automated databases (information systems) in accordance with the tasks and subject of the inspection;

3) accept for execution acts issued by the state labour inspector and make a relevant entry on receipt thereof on the second copy of the act;

4) provide, within the corresponding time period, information on execution of acts issued by the state labour inspector.

Article 333. Acts of the state labour inspector

1. Depending on the established violations of the labour legislation of the Republic of Kazakhstan, the state labour inspector shall issue (draw up) the following acts:

1) order:

on elimination of violations of the requirements of the labour legislation of the Republic of Kazakhstan;

on performing preventive work for labour protection and labour safety at production facilities and on equipment, as well as in production processes, for the purpose of precluding arising of situations fraught with the danger of injury or accidents;

on prohibition (suspension) of operation of individual production units, workshops, sites, work places and equipment and the activities of the organisation as a whole. In this case, an act prohibiting (suspending) the activities of an organisation shall remain in effect until a court ruling is passed;

2) report on an administrative offence;

3) resolution on termination of proceedings on a case of an administrative offence;

4) resolution on a case of an administrative offence.

2. Acts issued by a state labour inspector constitute legal sanctions imposed for violation by employers and officials of the requirements of the labour legislation established (identified) in the course of an inspection. The acts shall be drawn up in two copies, one of which shall be handed to the employer against its signature.

3. Acts issued by a state labour inspector shall be binding on officials, individuals and legal entities.

4. The format of acts issued by a state labour inspector shall be approved by the state labour authority.

Article 334. Inspections on observance of the labour legislation of the Republic of Kazakhstan, their types, forms and timeframes

1. Inspections shall be subdivided into planned and unscheduled checks.

A planned inspection is planned by the state labour authority or its territorial subdivision in consideration of the time intervals established by the laws of the Republic of Kazakhstan in relation to previous checks.

A planned inspection may also be performed in conjunction with other controlling authorities and employees' representatives on aspects of observance of the labour legislation of the Republic of Kazakhstan.

2. In relation to a single individual or legal entity, a planned inspection may be carried out no more often than once a year, and of small business – no more often than once every three years, unless the laws of the Republic of Kazakhstan envisage otherwise.

3. Unscheduled inspections are performed in response to applications from individuals or legal entities or state authorities concerning violation of the labour legislation of the Republic of Kazakhstan, as well as in the event that the state labour inspector established facts constituting a threat to the life and health of employees and requiring immediate elimination of violations in the sphere of labour protection and labour safety, or if other information is received that is confirmed by documents and other evidence and testifying to signs of such violations or disclosed during investigations into industrial accidents.

Anonymous applications shall not constitute grounds for an unscheduled inspection.

4. The duration of an inspection shall not exceed ten calendar days. In exceptional cases, if special research, tests or expert examinations are required, as well as in the event of a substantial volume of the inspection to be performed by the state labour inspectorate or its territorial subdivision (or person acting on its behalf), the duration of an inspection may be extended to twenty calendar days for a legal entity lacking any separate structural subdivisions and thirty calendar days for a legal entity with a separate structural subdivision.

Article 335. Procedure for appealing against decision, actions (inaction) on the part of the state labour inspector in exercise of state control

1. In the event of violation of the rights and lawful interests of the employer during exercise of state control, the employer shall have the right to appeal against the actions (inaction) of the state labour inspector to the state labour authority, the superior state labour inspector and (or) a court of law in the manner established by the legislation of the Republic of Kazakhstan.

2. An appeal shall not entail suspension of execution of acts issued by the state labour inspector.

Article 336. Interaction between the state labour inspectorate and other state authorities and organisations

1. The state labour inspectorate shall carry out its activities in interaction with other state supervisory and control authorities, with employees' representatives, public associations, and other organisations.

2. State authorities shall render assistance to the state labour inspectorate in fulfilment of its tasks of exercising control over fulfilment of the labour legislation of the Republic of Kazakhstan.

Article 337. Responsibility of the state labour inspector in exercising state control

The state labour inspector shall, in the event of failure to fulfil or duly fulfil his official duties in the exercise of state control, as well as in the event of other unlawful actions (inaction) being committed, bear the liability established by the laws of the Republic of Kazakhstan.

Chapter 39. INTERNAL CONTROL OVER LABOUR PROTECTION AND LABOUR SAFETY

Article 338. Internal control over labour protection and labour safety

1. Internal control shall include organisation of monitoring of the state of working conditions, performance of current analysis of data on production control, risk assessment and taking of measures to eliminate any discrepancies disclosed with the labour protection and labour safety requirements.

2. Internal control over labour protection and labour safety shall be carried out by the employer for the purpose of observing the set labour protection and labour safety requirements at work places and taking immediate measures to remedy any violation identified.

Article 339. Mechanism for exercise of internal control over labour protection and labour safety

1. For the purpose of exercising internal control over observance of the labour protection and labour safety requirements in production organisations with a staff of over 50, the employer shall set up a labour protection and labour safety service. In terms of its status, the labour protection and labour safety service is equated to the key production services.

2. Standard regulations on the labour protection and labour safety service in an organisation are approved by the state labour authority.

3. An employer with fewer than 50 employees shall introduce a position of labour protection and labour safety expert in consideration of the specifics of its activities or entrust the labour protection and labour safety obligations to another specialist.

4. Instructions of the labour protection and labour safety service or the labour protection and labour safety expert on fulfilment of labour protection and labour safety requirements shall be binding on all employees of the organisation.

Chapter 40. PUBLIC CONTROL OVER OBSERVANCE OF THE LABOUR LEGISLATION OF THE REPUBLIC OF KAZAKHSTAN

Article 340. Public control over the observance of the labour legislation within the organisation

1. Public control in the sphere of labour protection and labour safety in the organisation shall be performed by a public labour safety inspector elected by the trades union committee of the organisation and, in the absence of a trades union, by the general meeting (conference) of employees.

2. Republican, branch and regional associations of employees shall exercise public control over observance of the labour legislation in organisations on the condition that such rights are secured in agreements and collective bargaining agreements.

Article 341. Rights of public labour safety inspectors

The public labour safety inspector shall have the right:

- 1) to protect the rights of employees to labour safety before the employer by means of public control over observance by employers of the regulatory and legal acts on labour protection and labour safety, agreements, collective bargaining agreements on creation by the employer of normal working conditions and safety equipment at work places in organisations;
- 2) to take part in investigating industrial accidents and in comprehensive inspections performed by state labour inspectors of the status of labour protection and labour safety;
- 3) to receive information and explanations, including in writing, from employers and other officials of the organisation, as required for fulfilment of his functions;
- 4) to conduct inspections of fulfilment by employers of the obligations envisaged by agreements and collective bargaining agreement with respect to labour safety and, on the basis of the results of the inspection, to make proposals to officials to eliminate any violations identified;
- 5) to take part in the work of commissions on testing and commissioning of production facilities and means of production;
- 6) to participate in elaborating regulatory and legal acts on labour safety and to make proposals thereto;
- 7) to appeal to the relevant state authorities for employers and other officials of organisations to be held liable for violations of the legislation of the Republic of Kazakhstan on labour protection and labour safety, the provisions of agreements and collective bargaining agreements with respect to labour safety, and concealment of industrial accidents and occupational diseases;
- 8) to take part in consideration of labour disputes relating to a change in working conditions, violation of the legislation of the Republic of Kazakhstan on labour protection and labour safety, failure to fulfil the obligations envisaged by agreements and collective bargaining agreements, as well as employment contracts with respect to labour protection and labour safety;
- 9) at the request of an employee, to enter in court a motion for protection of the rights of employees to recompense for harm inflicted as a result of injury or other damage to the health in connection with fulfilment of job duties, and in other cases of infringement of the rights of employees to labour protection and labour safety.

President of the Republic of Kazakhstan

PS: In accordance with the Law of the Republic of Kazakhstan of 15 May 2007 “On Enactment of the Labour Code of the Republic of Kazakhstan”, it shall come into effect from 1 June 2007, with the exception of clause 2, article 122, article 204, clause 1, article 239, and subclause 5), clause 5, article 276, which shall come into effect from 1 January 2008.