

ESSENTIAL CHANGES IN THE LABOUR CODE OF THE REPUBLIC OF ARMENIA: MAIN ASPECTS



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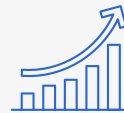
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> 22

countries of presence



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years of experience



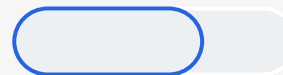
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professionals



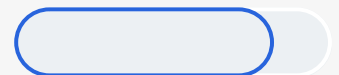
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practice areas



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On May 03, 2023, the National Assembly of the Republic of Armenia passed Law No 160-N entitled “On Amendments and Addenda in the Labor Code of the Republic of Armenia”. This law introduces significant changes to the Labor Code, with a number of articles being amended and several new articles being added.

In this article, we will highlight some of the most notable amendments and additions to the Labor Code.

By amending the Article 89, the legislator envisaged the possibility of hiring of non-residents who will not be required to present public services number, which is considered obligatory for all other categories of the employees.

The referenced novelty allows foreign citizens and stateless persons not having residence in Armenia to enter into employment relationship with the Armenian employer without obtaining the public services number under the main condition of not residing in Armenia.

The Law provides assurances on their labor rights protection to the employees at the age of retirement. In particular, the employer will not have the possibility to discriminate against the retired people, forcing them to sign fixed-term contracts. Now they can be treated with the employment contracts for indefinite term as the rest categories of the employees.

Certain changes have affected regulations on the part-time work. Among those the noteworthy one is that the employer now will not have the waiver for severance payment for the employees under the part-time employment contracts.

For the first time, alongside with the workplace, remuneration size, privileges, work regime, work title, type of the employment contract, the labor functions now to be deemed among the essential terms of the contract.

The lawmaker stipulated the new grounds for the employment contract termination. The new feature is on the employment contract termination “by virtue of the law”.



The addendum comes down to the following: The employer waives the obligation to issue a personal legal act on fixed-term employment contract termination and gains the right to disallow the employee to perform any work obligation once the term of the fixed-term employment contract is over. Thus, the stated under the Article 5 of the Labor Code of the Republic of Armenia and proven by the several case laws, the provision on the personal legal acts of the employment contract termination should be handled to the employees in three-days term upon their issuance, in which cases only they become effective, is not applicable to such terminations. Under the current regulation the main role in termination of the fixed-term employment contracts is reserved to the contract deadline rather than the employer's personal legal act.

Another novelty is related to the new possibility for the employers to terminate the employment contracts on mutual consent grounds at any time in case of an application from the employee. Before this the employers were restricted with the statement that the employees may call back their applications with no further formalities or restrictions within 3-days term upon submission. Now, the employees have a possibility to request their employers to terminate the employment agreements notwithstanding such restrictions – at any time.

In local practice there is a possibility for the legal entities to suspend their operations without applying to liquidation or reorganization processes. Such suspension was not considered by the legislator among the grounds for the employment contract termination on the initiative of the employer in the past. At the same time the new regulation from our viewpoint can easily lead to the violations from the employers' side as far as for the temporary suspension of, for example, limited liability companies only a written application submission to the tax authority is considered as the required action.

THE BENEFICIAL FOR THE EMPLOYEES' AMENDMENTS INCLUDE THE PROLONGATION OF THE ALLOWED TERM OF THE EMPLOYEE'S INCAPACITY FOR WORK: NOW IT WILL COUNT UP TO 180 DAYS WITHIN ANY RECENT 12-MONTH PERIOD.

► Some changes are made to the terms of the employment contract termination on the initiative of the employer. Inter alia the termination for the loss of trust now is not strictly related to the material breach resulted from the incorrect management of the financial or assets or commodities, but also to any conduct which has resulted or may result to any material damage to the employer.

Among the new feature is the mandatory termination of the employment contracts in case of the employer-physical person's death. Before the Law adoption the employees were entitled to continue the employment contracts with the trust manager, which is now being restricted.

- Within the terms of the assurance of the normal worktime duration by a new amendment the lawmaker made the employee the sole responsible for the overtime work duration, which means that in order for the employer to restrict the working hours of the employee, who works on several jobs, the employer should be provided by a written notice from the employee on the involvement in part-time work.
- Remarkably, the legislator has saturated the Law with a lot of labor guarantees to the different types of employees, stipulating and amending several provisions on the employment regulations of the pregnant women and young mothers, minors, persons with disabilities and the employees of the retirement age.



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