

LABOUR CODE AMENDED

Law No 675-VQD, dated 31 May 2017, of the Republic of Azerbaijan amending the Labour Code of the Republic of Azerbaijan was adopted. The amendments come into force as of 1 January 2018.

Term of Employment Agreement

Under the new amendments, an employment agreement shall be made indefinite and termed. A termed employment agreement is made for a period agreed between the parties. Under the presently applicable rule, however, an employment agreement is made without determining its term in advance (indefinite) and for a period up to five years (termed).

Notice Periods

Under the presently applicable law, upon downsizing and staff reduction, an employer must notify the employee at least two months in advance of terminating the employment agreement. To enable the employee to find a new job, the employee is allowed not to report for work with pay one working day each week during the notice period. Under the new adopted amendment, upon downsizing and staff reduction, an employer making notifications of employment termination must be taking into account employees' years of service, *i.e.*, as opposed to notifying the employee two months in advance of termination of employment, the employer will formally notify the employee in time periods according to the years of service based on his/her employment agreement (employment agreements).

Under the amendment, should the employee's years of service be less than one year, he/she shall be notified of downsizing and termination of his/her staff unit at least two calendar weeks in advance, should the years of service be one to five years, in at least four calendar weeks, should the years of service be five to ten years, in at least six calendar weeks, and, should the years of service be in excess of ten years, in at least nine calendar weeks in advance.

Severance Pays

Another amendment made to the Code relates to severance pays to employees upon termination of employment. As amended, severance pays, upon termination of employment following termination of an enterprise and downsizing and staff reduction, shall be paid depending on the years of service. If an employee's years of services are less than one year, the severance pay shall equal the average monthly salary, should years of service be one to five years long, 1.4 times the monthly average salary amount, should years of service be five to ten years, 1.7 times the monthly average salary amount, and, should the years of service be in excess of ten years, the severance pay shall be at least two times the monthly average salary amount.

An employer might terminate an employment agreement in place of notice periods required under the Labour Code upon making a lump-sum payment to the agreeing employee of his/her two-month salary. However, under the newly-made amendment, the employer can terminate employment in relevant cases by making the agreeing employee 0.5 times the average monthly salary payment in place of a required at least two-calendar-week advance notice, 0.9 of the average monthly salary amount in place of an at least four-calendar-week notice, 1.4 times the average monthly salary in place of an at least six-calendar-week notice, two times the average salary amount in place of an at least nine-calendar-week notice period, and at least

one monthly salary amount in place of a one month notice period required for the change of employment conditions.

RULES OF ISSUING ELECTRONIC SIGNATURE CERTIFICATES TO NON-RESIDENTS

Decree No 1598, dated 12 September 2017, of the President of the Republic of Azerbaijan approves the Rules of issuing through diplomatic missions and consulates of the Republic of Azerbaijan non-residents an electronic signature certificate. From now on, non-resident persons, *i.e.*, foreigners and stateless persons residing outside Azerbaijan, citizens of the Republic of Azerbaijan permanently residing abroad, and legal entities operating outside Azerbaijan, can obtain an electronic signature certificate through an “E-Non-Resident” subsystem of the “Entry-Departure and Registration” interdepartmental computerised information retrieval system.

Issuance of E-Signature Certificate

Applications to obtain electronic signature for non-residents are filed with the “E-Non-Resident” subsystem. A non-resident wishing to obtain an electronic signature must fill in an electronic application form to obtain the certificate attaching a copy of the identification document (passport or identification card) of the non-resident, one 3.5 x 4.5 cm size colour photograph complying with biometric identification requirements, and, should the application be made by a representative of the non-resident, a form of a power of attorney to the person authorised to represent the non-resident, and make the payment online. The non-resident filling in the application form must indicate whether he/she wishes to obtain an “E-Signature” or “ASAN [easy] Signature” and “Business” or “Personal” certificates as well as enter information of him/herself and, if any, of a person acting on behalf of the non-resident.

Once the application has been approved by the non-resident, confirmation of the application having been filed is notified to an e-mail address and (or) mobile number. If none of the Ministry of Internal Affairs, Ministry of Foreign Affairs, State Security Service, and Foreign Intelligence Service of the Republic of Azerbaijan has opined negatively about the application in three business days, the non-resident is issued the “virtual FIN (personal identification number)” and a certificate servicing centre registered with or accredited by the Ministry of Transport, Communication, and High Technologies of the Republic of Azerbaijan or the Asan Certificate Servicing Centre of the Ministry of Taxes of the Republic of Azerbaijan (hereinafter, the “Centre”) resolves to issue the electronic signature certificate. Upon the resolution’s arrival at the diplomatic mission, to enable verification of authenticity of documents attached to the application, the non-resident presents at the mission the originals of those documents as well as one 3.5 x 4.5 cm colour photograph taken to comply with the biometric identification requirements, following which the consulate issues to the non-resident the “E-Signature” or “ASAN Signature” certificate and supporting token or SIM card.

If discrepancy of the information is discovered, the diplomatic mission refuses to issue the certificate and cancels the “virtual FIN”.

An agreement for the issued certificate and “ASAN Signature” certificate is signed by the non-resident. The term of validity of the electronic signature certificate issued to non-residents is three years.

Deactivation, Reactivation, and Cancellation of Validity of Electronic Signature Certificate

Should deactivation, reactivation, and cancellation of validity of the certificate be required, the non-resident can apply through the portal to the diplomatic mission or directly to the Centre that issued the certificate. The relevant change is notified to the e-mail address and (or) mobile number by SMS of the non-resident.

Upon breach of secrecy of information used to create the signature, the signature owner must notify the diplomatic mission or the Centre of the breach, in which case, the Centre ensures replacement of the certificate free of charge.

**MAKING AMENDMENTS TO INSTRUCTIVE ORDER
“ON ESTABLISHMENT OF ‘AZARKOSMOS’ [AZERCOSMOS] OPEN JOINT STOCK COMPANY”**

The President of the Republic of Azerbaijan signed on 17 October 2017 the Instructive Order amending the Instructive Order No 885, dated 3 May 2010, On Establishing “Azarkosmos” Open Joint Stock Company.

Under the revised provisions of the Instructive Order, the powers of the Ministry of Transport, Communication, and High Technologies discharging those of the general meeting of “Azarkosmos” Open Joint Stock Company (hereinafter, the “**Company**”) have been transferred to the Cabinet of Ministers. Pursuant to the amendment made to the Instructive Order, the Cabinet of Ministers is empowered with determination of directions for development, consenting to representative and branch offices of the Company and to appointment and termination of managers of establishments having the status of legal entities subordinate to the Company, approval of annual reports, accounting balance sheets, and profit and loss accounts of the Company, resolving on a transaction having a value in excess of 25 per cent of the value of net assets of the Company (transaction of special importance) as well as, taking into account an independent auditor’s opinion, on a transaction valued at five per cent and higher of the Company’s assets, and approval of the maximum number of employees and of expense budget of the Company.

Under the amendment, appointment and dismissal of the chairman and, now, his/her deputies of the Company are made by the President of the Republic of Azerbaijan. Activities for establishment of the relevant Council with the purposes of studying the latest scientific and technical achievements and advanced expertise in the sphere of cosmic activities, participation in the taking of relevant measures implementing the state policy in this sphere, and preparation of proposals related to development of the sphere are now discharged by the Cabinet of Ministers instead of the Ministry of Transport, Communication, and High Technologies. Proposals to have presidential acts conform to this Instructive Order and conformance to this Instructive Order of the acts of the Cabinet of Ministers must be made in three months.

**PLEASE CONTACT US FOR ANY QUESTIONS AND FURTHER
INFORMATION AT:**

BM Morrison Partners
Tel: (994 12) 497 19 14; 497 19 15
Fax: (994 12) 497 19 13
E-mail: info@bmlawaz.com

©2017 BM Morrison Partners. All rights reserved.

* Information in our updates does not constitute legal or other professional advice.