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Amendments to labour code

Law of the Republic of Azerbaijan “on Amendments to the Labour Code of the Republic of Azerbaijan” was approved by the President of the Republic of Azerbaijan on 7 May 2021.

New amendments to the Labor Code precisely determine the definition of employment relations and, consequently, exclude misclassification issues.

The amendments concern the following matters:

1) In accordance with the Law, a new paragraph (paragraph 5) respectively named inadmissibility of formalization of labor relations by civil law contracts will be added to the 3 body of Article 2 of the Labor Code. Previously stated as paragraph 5's context - mainly based on the principles of creating legal guarantees for the fulfillment of obligations under the Employment Agreement, will be switched to paragraph 6.

2) Article 3 should be renamed to the “Main definitions used in this Code” (previously referred to as “Basic Terms and Definitions Used in the Labor Code of the Republic of Azerbaijan”). Apart from that paragraph 4-1 should be added to Article 3 under the following scope:

Labor relations - personal performance by an employee of paid work at the workplace where he was hired (appointed), selected, reinstated at work in accordance with the obligations provided for by labor legislation, collective agreements, and contracts, by mutual agreement with the employer; relations based on the abidance of the rules of internal discipline, the provision by the employer of working conditions, guarantees, and labor protection of the employee, as well as the principles of the Code.

3) Paragraphs **2-3** and **2-4** will be added to Article 7 of the Labor Code in the following contents:

“2-3. In the following cases relations arising between the parties are considered employment relations and are not allowed to be formalized by civil law contracts:

2-3.1. if the content of the Employment Agreement complies with paragraph 2 of Article 43 of the Code, and the form defined by Part 2 of Article 44 of the Code;

2-3.2. if a labor book is being submitted for registration of relations between the parties and for keeping relevant records in accordance with Article 48 of the Code;

2-3.3. if relations between the parties are arising in connection with the admission (appointment) to the relevant profession or position, including paid election or appointment, as well as holding a position on a competitive basis, employment on a quota basis, reinstatement by a court decision;

2-3.4. if relations between the parties are arising in connection with the performance of work (services) related to the main field of activity of the employer;

2-3.5. if relations between the parties are arising in connection with the performance of works (services) on a substitute or temporary replacement basis;

2-3.6. if the work (service) is of a temporary nature due to the conditions of performance and the extension of the Employment Agreement is regulated in accordance with Article 73 of the Code;

2-3.7. if the fee paid for the performed work (service) consists of the monthly tariff (position) salary, allowance, and bonus as specified in part 3 of Article 157 of the Code;

2-3.8. if the Employment Agreement contains regulations of issues provided in Articles 10, 77, 112, 179, and 186 of the Code;

2-4. A written Employment Agreement shall be concluded in accordance with Part 2 of this Article (i.e. Article 7) from the date of discovery of one of the cases provided for in paragraph 2-3 of this Article."

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