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Employment Relationships: How to Navigate the Coronavirus and Oil Crises

Dear clients,

The recent changes in the economic environment imminently affect the employment relationships.

Coronavirus, global drop in oil prices, devaluation of the national currency have caused a number of questions for the employers of the Republic of Kazakhstan that shall be addressed immediately.

Based on our practice, the most urgent issues now for the employers are:

1. Transfer of employees to remote work to prevent of the coronavirus infection;
2. Optimisation of staff and payroll in connection with a decrease in the volume of work.

Given the foregoing, we would like to draw your attention to the following:

The transfer of employees to remote work shall take into account the requirements of Article 33.2 and Article 138 of the Labour Code of the Republic of Kazakhstan. In particular, the employers shall:

Send a notice of transfer to the employees with attached additional agreements. Thereat, the employees have a deadline for consideration of the employer's notice, which is five (5) business days from the date of the notice receipt. The additional agreements shall provide whose communication means will be used during the work (those of the employee or the employer). If the employee use own communication means, the additional agreement shall provide for the relevant compensation to be paid to the employee. Also the additional agreement shall include special aspects the employee's working time recording.

The main point that the employers shall understand is that employees cannot be transferred to remote work only by issuing the respective order, since the transfer involves changing the terms of the employment agreement, which shall be finalised in an additional agreement only.

Optimisation of staff and payroll in connection with a decrease in the volume of work can be possible through:

- ▶ staff redundancy (downsizing);
- ▶ transfer of employee to the part-time job with the relevant salary reduction;
- ▶ downtime mode.

All the above options are provided for by the Labour Code of the Republic of Kazakhstan. The employers, however, when applying any of the options shall take into account the special requirements and restrictions that are often specified by some other legal acts. The Law of the Republic of Kazakhstan 'On Employment', the Law of the Republic of Kazakhstan 'On Professional Unions', agreements of social partnership.

Violation by an employer of the requirements for the employment termination procedure, changes in working conditions entails the invalidation of these procedures, restoration of the employees' rights.

Our clients often cannot immediately decide what optimisation option will be the best for them; in this regard, we can offer our

clients a comparative analysis of all possible optimisation options indicating the timing of the implementation and the size of the expected employer's costs.

If the issues raised above are relevant to your company, we are always ready to assist you by providing written or oral explanations that we hope will help you to understand in detail the current situation, develop a further actions plan and minimise certain risks, where possible.

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Best Regards,

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