



Legal update

January 2023



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Dear colleagues,

It is our pleasure to share PwC Armenia 13 – 31 January 2023 legal update. We hope it will be useful. For more details please do not hesitate to contact us at PwC Armenia by contact information provided at the end of this document.



Initiative to amend and supplement the Labor Code of the Republic of Armenia from 09.11.2004 and other legislative acts

In brief

On 26 January 2023 the Government has approved the initiative to make amendments and supplements to the Labor Code, the Tax Code from 04.10.2016 , as well as the Law “On personal accounting of income tax, profit tax and social contribution” from 22.12.2010. Amendments are aimed at regulating relations with regard to conclusion and termination of an employment agreement, employee representation and labor disputes, youth work and internship, etc.

In detail

The initiative prescribes a large volume of changes which are grouped and presented below.

New concepts

- ✓ Amendments provide for the definitions of a number of concepts, which were previously absent in the Labor Code, such as “violence”, “place of employment”, “primary place of employment”, “violence or harassment in employment relations”, as well as the rules for defining primary and secondary employment.

Conclusion of an employment agreement

- ✓ Amendments expand the list of compulsory requirements defined for employment agreement and individual legal act on hiring an employee, whereas including the obligation to specify place of employment, as well as communication methods between employer and employee in course of employment relations in the respective documents.
- ✓ Amendments determine alternative ways for the conclusion of an employment agreement, which is mail and electronic means. Particularly, the newly proposed option defines that the exchange of contracts between the parties may happen in one or more of the following ways: a) by; b) by facsimile; c) through an electronic communication. registered mail with acknowledgement of receipt
- ✓ Amendments provide for relevant provisions for the establishment of the place of origin (in or outside the Republic of Armenia) of labor relations.
- ✓ Amendments remove social security card or a certificate of not having a social security card or a public service number or a certificate of not having a public service number from the list of mandatory documents when hiring an employee provided that the latter is a foreign citizen who does not have the right of residence (residence status) in the Republic of Armenia or is a stateless person and will not be actually in the Republic of Armenia.

Termination of an employment agreement

- ✓ Amendments remove the possibility of terminating an employment agreement by the initiative of employer based on the ground of age (retirement age) of an employee.
- ✓ Amendments provide for more flexible mechanisms for the termination of an employment agreement at the initiative of an employee provided the absence of an employer's objection. In particular, it is established that the employment agreement can be terminated within the period specified in the dismissal application, without observing the 30-day notification period defined by the Labor Code.
- ✓ Amendments also introduce daily fine in the amount of average daily wage (but not more than the average monthly wage), where the employee initiates termination of employment agreement and does not observe the notification period, while the employer objects to such non observation.
- ✓ Amendments expand the cases where loss of trust in an employee might be established. Particularly, a new ground for termination is provided: illegal use of computer equipment or information systems of an employer or other employees.
- ✓ Amendments propose to establish that the parties to the employment relations have equal rights regardless of the color of their skin. At the same time, it is established that skin color cannot be considered as a legal reason for terminating employment agreement.

Salary

- ✓ Amendments stipulate that the employment agreement shall specify the gross salary, i.e. including taxes paid from the salary, as well as social or other mandatory payments defined by the law.
- ✓ Amendments establish that the salary paid to an employee after making deductions defined by the Labor Code cannot be less than the minimum wage, while removing current provision of the Labor Code defining a number of exceptions according to which the salary paid to an employee after deductions could be less than the minimum wage.

Employee representation, labor disputes

- ✓ Regulations relating to employees' representatives are reviewed in view of the importance of promoting and enhancing the role of trade unions. In particular, it is more clearly defined that trade unions have the right to represent the rights and interests of employees and protect them in labor relations, and only in the absence of the latter, the functions of representation and protection of interests of employees may be transferred to the relevant branch or regional trade union.

- ✓ The Labor Code has also been supplemented with a relevant provision, which will provide an opportunity to mediate labor disputes, considering the requirements defined by the Law “On Mediation”.

Youth work

- ✓ Amendments define types of work (based on their nature and terms) where the engagement of persons under the age of eighteen is forbidden. In particular, persons under the age of eighteen may be involved only in such work that does not threaten their health, morality, safety and does not prevent them from receiving compulsory education.
- ✓ Working hours for children are also reviewed. It is stipulated that children can only work outside the hours set for compulsory education.

Annual leave

- ✓ Amendments modify and clarify the relevant norms related to annual leave granting, transferring and extending. In case of failure to provide the annual leave or the transferred part of the annual leave to an employee within the relevant period defined by the Labor Code, an employer is required to pay damages to an employee, except for certain cases stipulated by the Labor Code. Upon the agreement of the parties, annual leave may also be granted before the completion of six month period of work with the given employer.

Collective employment agreement

- ✓ Amendments introduce provisions on keeping in force collective employment agreement in the event of reorganization or privatization of the organization. The agreement will be in force until the expiration of the remaining period or conclusion of a new collective employment agreement, except for the cases defined by the Labor Code.

Internship

- ✓ Amendments provide for regulations of the internship institution. The procedure for gaining work experience with the employer, the concept of intern, rights and responsibilities within the framework of contractual arrangements, issuing a certificate to the intern, as well as other procedural regulations are defined. It is also provided that the employer will keep records of interns involved within the framework of labor practice by submitting an application to the tax authority in electronic form. For that purpose amendments to the Tax Code, as well as the Law “On personal accounting of income tax, profit tax and social contribution” are introduced.

For more details, please visit

<https://www.e-gov.am/gov-decrees/item/39764/>

Initiative to amend and supplement the Law of the Republic of Armenia “On Commercial Arbitration” from 25.12.2006, as well as the Civil Procedure Code of the Republic of Armenia from 09.02.2018

In brief

On 19 January 2023 the Government has approved the initiative to amend and supplement the Law “On Commercial Arbitration”, as well as the Civil Procedure Code, which is aimed at ensuring the continuous development of the arbitration institution in Armenia.

In detail

According to the amendments and supplements it is proposed:

- To establish minimum grounds for challenging an arbitrator;
- To examine an application for issuing a writ of execution for the enforcement of an arbitration award and an application for the annulment of an arbitration award within the framework of one proceeding;
- To amend certain terms and clarify regulations in the Law “On Commercial Arbitration” and the Civil Procedure Code, ensuring proper application of the legislation.

As a result of adoption of the amendments and supplements, it is expected to develop the institution of arbitration in Armenia and relieve the burden of courts, increasing public trust in the institution of arbitration and, in particular, in arbitrators, excluding the abuses of parties during the examination of the relevant applications by court and setting the shortest possible trial terms.

For more details, please visit

<https://www.e-gov.am/gov-decrees/item/39746/>



Amendments to the Law of the Republic of Armenia “On Licensing” from 30.05.2001

In brief

The Law “On Amendments to the Law “On Licensing”, expanding the scope of activities subject to licensing, came into force on 22 January 2023.

In detail

According to the amendments two new types of business operations are included in the list of activities subject to licensing. These activities are: manufacturing of medical devices and maintenance of medical devices.

For more details, please visit

<https://www.irtek.am/views/act.aspx?aid=155597>

The Government decision of the Republic of Armenia No. 79-Ն from 19.01.2023

In brief

On 19 January 2023 the Government has decided to approve simplified procedures for granting permission to foreign legal entities to carry out different types of activities subject to licensing in the Republic of Armenia. The Government decision came into force on 2 February 2023.

In detail

The relevant procedures for granting permission to foreign legal entities to carry out activities subject to licensing cover the following types of activities:

- postal communication;
- urban development;
- custody activities in the territory of the Republic of Armenia;
- railway transport activities;
- passenger transport by passenger-taxi cars.

The Government decision defines the procedures for granting permission in the presence of a document certifying the right of a foreign legal entity to engage in the relevant type of activity under the legislation of the given state. Permission to foreign legal entities to carry out activities subject to licensing is granted by the most simplified procedure.

For more details, please visit

<https://www.e-gov.am/gov-decrees/item/39753/>



Board's decision of the Central Bank of Armenia No. 4-Ն from 10.01.2023

In brief

Central Bank Board's decision "On approval of Regulation 10/33 on "Criteria for assessing the purpose of incorporation or activities of a legal entity (pool of assets) as an investment fund" came into force on 30.01.2023. The criteria for assessing an activity as an investment fund have been specified.

In detail

Regulation 10/33 is adopted with the aim of promoting development of the field of non-public investment funds by clarifying the criteria for qualifying incorporation or activity of a legal entity (pool of assets) as an investment fund and enabling only those who meet these criteria to act as an investment fund.

According to the Regulation 10/33 the purpose of incorporation or activity of a legal entity (pool of assets) does not correspond to the purpose of investment fund, if a legal entity (pool of assets) meets at least one of the following criteria:

- carries out activities that are not typical of collective investment activities carried out by an investment fund, including if it carries out any of the following types of activities:
 - production, purchase, sale and/or exchange of goods;
 - construction of buildings or structures;
 - performance of works and/or provision of non-financial services;
- does not have a defined investment policy according to which it should be managed.

For more details, please visit

<https://www.irtek.am/views/act.aspx?aid=119729>

Amendments to the Board's decision of the Central Bank of Armenia No. 293-Ն from 08.06.2005

In brief

Amendments to the Central Bank Board's decision "On approval of the procedure for providing documents verifying foreign exchange trading operations by market professionals to clients" came into force on 14 January 2023. Content of the receipts provided to the clients in course of foreign trading operations is unified among different market professionals.

In detail

Amendments are intended to bring the information in receipts provided to the client by banks in the course of foreign exchange trading operations into conformity with the information in receipts provided by other market professionals. Under the Law of the Republic of Armenia "On currency regulation and currency control" the concept of market professionals covers banks, foreign banks branches operating in the Republic of Armenia, credit organizations, settlement organizations, exchange offices, foreign exchange traders.

According to the amendments the reflection of information about the client's name and surname (for legal entities' representatives – also the company's name, address and stamp), ID details and signature on the receipt is obligatory for foreign exchange trading operations exceeding 100 000 AMD. Before amendments the 100 000 AMD threshold was obligatory for exchange offices and credit organizations, while for the rest of the market professionals the abovementioned information was obligatory only for foreign exchange trading operations exceeding 400 000 AMD.

For more details, please visit

<https://www.irtek.am/views/act.aspx?aid=119662>

Contact us

For a deeper discussion of how these changes might affect your business, please contact us at PwC Armenia

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