

PwC Eurasia Legal

Legal Newsletter

November 2022



PwC Legal provides a broad range of legal services in Kazakhstan, Azerbaijan, Armenia, Georgia, Mongolia and Uzbekistan, which are complementary to our Assurance, Advisory and Tax practices. Below we outline significant legislative changes for November in these countries.

Kazakhstan

The President signed the Constitutional Law “On Constitutional Court”

On 5 November 2022 the President signed the Constitutional Law “On Constitutional Court” (the “**Constitutional Law**”). The Constitutional Law determines the status of the Constitutional Court, its judges, their guarantees and procedure for constitutional proceedings. The Constitutional Court is a body ensuring supremacy of the Constitution in Kazakhstan. The Constitutional Law came into force on 18 November 2022.

The Mazhilis accepted for consideration the draft law simplifying procedures for resolution of labor disputes and conflicts

On 7 November 2022 the Mazhilis accepted for consideration the draft Law “on introduction of amendments to certain legislative acts for simplification of procedures for resolution of labor disputes and conflicts” (the “**Draft Law**”). The Draft Law provides for the possibility to hold short-term protests by employees, prohibitions for employers to replace employees, and participating in lawful strikes. The Draft Law also stipulates changes, aimed at regulation of conciliation commissions’ activities.

The Mazhilis accepted for consideration the draft law, stipulating changes in support of use of renewable energy sources

On 17 November 2022 the Mazhilis accepted for consideration the draft Law “On introduction of amendments to certain legislative acts on support of use of renewable energy sources, electricity and natural monopolies” (the “**Draft Law**”). The Draft Law includes the following changes:

- possibility for individual and net consumers (persons, who generate electricity for own consumption using own small-scale facilities) to carry out activities on production of electricity and/or thermal power or sale of electricity power without registration as individual entrepreneurs;
- exemption from payment of customs duties in respect of goods for construction and operation in Kazakhstan of facilities, producing power from naturally occurring processes;
- establishment of a separate legal framework for construction and operation of small-scale facilities, using renewable energy sources;
- conditions for connection of net consumers to power grids of energy transmission organizations and sale of electricity power to energy supply organizations.

The Mazhilis accepted for consideration the amendments to the Code “On Subsurface and Subsurface Use”

On 17 November 2022 the Mazhilis accepted for consideration the draft Law “On introduction of amendments to the Code “On Subsurface and Subsurface Use” for improvement of subsurface use” (the “**Draft Law**”). The Draft Law includes the following changes:

- separate procedure for issuing approval for encumbrance of subsurface use right;
- subsurface user’s right to refuse from drilling a well, stipulated by working program of exploration and production contract, provided that certain conditions are met;
- implementation of liquidation / conservation of wells should be according to a plan (i.e., not according to the liquidation project);
- exclusion of the requirement to develop a project for elimination of consequences of hydrocarbon exploration together with exploration project.

Amendments were introduced to the Market Abuse Rules

In accordance with the amendments to the Market Abuse Rules No.319, the requirement on monitoring and analysis of the securities' market to reveal manipulation would apply to announcements of applications for entering into transactions with securities, distribution of unreliable or misleading information on securities and other financial instruments, which may affect their value.

The Resolution came into effect on 24 November 2022.

Azerbaijan

Amendments to the Labor Code were introduced

A number of major amendments have been introduced to the Labor Code by the Law "On Amendments to the Labor Code" dated 24 November 2022. The amendments include the following:

- extension of the employer's basic rights, specified in Article 11 of the Labor Code. The employer is entitled to organise additional education to improve the level of vocational preparation of employees, their qualifications and acquisition of new specialisations;
- attestation of employees, its procedures and terms have been expanded, and the results of improvement of the level of vocational preparation, acquisition of new specialisation and qualification upgrades over the last five years would be considered while determining the employee's suitability for the position, held during the attestation;
- provisions, regulating the results of attestation of employees, have been changed, and the employer is entitled to engage the employee in training to improve vocational preparation, acquire new specialisation and upgrade qualifications. Previously, the employer could only transfer the employee to another relevant position with the employee's consent as per results of the attestation;
- amendments were introduced to Article 78 of the Labour Code: the employer is entitled to consider the employee's improvement of vocational preparation, acquisition of new specialisation and upgrade of qualification, while determining the level of proficiency of the employee, who has a priority right to be retained in the event of redundancy;
- Article 179 of the Labour Code was amended: the employee may retain his/her job and average salary in case when the employee is released from production only if the employee is assigned to additional education institution by the employer.

The amendments to the Labour Code came into effect on 24 November 2022.

Draft Law on 'De-oligarchization'

The Parliament adopted the draft Law on 'De-oligarchization' with a second hearing. To become Law, the draft law shall go through one more hearing. The draft law creates the legal basis for the functioning of a system, which should ensure the prevention of excessive influence of oligarchs and determines the procedure of enforcement measures directed against such persons. The purpose of the draft law is to:

- overcome the conflict of interests arising from the merger of politicians, media and large businesses;
- prevent the increase of oligarch's property by using political power;
- ensure the national security of Georgia in the fields of economics, politics and information;
- protect basic human rights, democracy and state sovereignty.

The draft law envisages creation of a Registry of Oligarchs. The persons entered into this Registry will be prohibited from funding political parties and political campaigns, as well as from participating in privatization processes of large-scale objects through companies in which they are beneficial owners.

Monitoring the compliance of auditors and audit firms with legal requirements

On 17 November 2022 the Head of the Service for Accounting, Reporting and Auditing Supervision (the "Service") passed the Order "On Determining the Procedure for Conducting an Investigation of Auditors/Audit Firms". The Order enters into force from 1 January 2023.

The order determines the manner and methodology for conducting the investigation of compliance of the auditors and audit firms with the requirements of the Law "On Accounting, Reporting and Audit" and the legal acts stipulated by this Law. The investigation does not include monitoring of the auditor's/audit firm's quality control system. The decision passed as a result of the investigation by the Service, imposing a sanction on the auditor/audit firm, will be published on the website of the Service for a period of at least 5 years, with the relevant information regarding the appeal of this decision (if any).

Orders of the Head of the National Bank regulating the activities of commercial banks

On 1 November 2022 three Orders of the Head of the National Bank entered into force:

- Order "On the Approval of the Rule for Licensing the Commercial Banks";
- Order "On the Approval of the Rule Regarding the Suitability Criteria for Administrators of Commercial Banks"; and
- Order "On the Approval of the Rule of Acquisition of a Significant Share of a Commercial Bank".

The predecessor acts of the above orders have been abolished. These orders establish new procedures and reporting requirements for commercial banks in order to create a safer, more efficient banking system in Georgia.

Mongolia plans to revise the Law on Non-Banking Financial Activities

In connection with the rapid development of technology in the financial sector, Mongolia intends to revise the Law on Non-Banking Financial Activities. Specifically, on 31 October 2022 The European Bank for Reconstruction and Development and Financial Regulatory Commission of Mongolia organized a discussion on the draft revision of the Law on Non-Banking Financial Activities. If the revision is adopted, the legal environment for the tech-based financial services will be enhanced. Moreover, with the revised version, non-banking financial institutions will have more opportunities and an increased role in the sector.

Draft law on Public-Private Partnership is being discussed

The Parliament is discussing a draft Law on Public-Private Partnership to replace the existing Law on Concession. The purpose of the law is to eliminate the difficulties that arise when the private sector works with government organizations. If the draft law is adopted, a new ministry or agency in charge of public-private partnership issues will be established, and this organization will carry out the activities such as receiving project proposals, preliminary evaluation, and discussing project evaluations with the Government.

Mongolia adopted General guidelines on monetary policy for 2023

On 11 November 2022 the Parliament adopted the General guidelines on monetary policy for 2023. According to the guidelines, the Central Bank on its own or jointly with the Government will implement measures and policies to ensure financial and economic stability. For instance, the Central Bank aims to stabilize the inflation at around 6 percent, with the range of +/-2 points.

Armenia

The Government has approved the initiative to amend and supplement the Law on state support for companies operating in information technologies, as well as in the Tax Code

On 24 November 2022 the Government approved the project on making amendments and supplements to the Law on state support for the companies operating in information technologies, as well as in the Tax Code. By these amendments the state support in the form of tax incentives for start-up companies (the application of 0% corporate income tax and 10% personal income tax) would be extended to 31 December 2023. This initiative of the Government has been considered as urgent and will be presented to the National Assembly.

Supplements were made to the Law of on Aviation, which are related to the expansion of obligations of the carrier towards passengers

With this amendment the legislator puts additional obligations on the carrier towards passengers. In particular it obliges the carrier to:

- protect and take care of passengers and crew members from the moment of leaving the airplane until they receive an entry permit to Armenia;
- be responsible for safety and care of passengers, whose entry permit to Armenia has been refused;
- deliver the passenger to the airport of departure, taking care of accommodation and food needs if the entry permit to Armenia has been rejected.

The amendment came into force on 24 November 2022.

The Government has approved the initiative to supplement a number of laws, which are aimed to regulate e-commerce, profit tax payment by individual entrepreneurs

The main objectives of the package of projects are as follows:

- to establish relevant regulations in the Tax Code regarding the e-commerce of goods;
- in the case of sale of car between individuals, establish a state duty instead of income tax and entrust its collection to the Police of Armenia,
- to increase the corporate income tax rate for individual entrepreneurs operating in the general taxation system from 18% to 23%.

The initiative of the Government has been considered as urgent and will be presented to the National Assembly.

The President approved the new Labour Code

The new Labour Code introduces the principle of social partnership and new terms, such as “paid internship”, “remote work”, “internal investigation”. The new Labour Code:

- establishes the invitation-to-work process;
- expands compulsory conditions of the employment contract;
- establishes grounds and the maximum duration of a fixed-term employment contract;
- introduces conditions for application of a 6-month probation period;
- increases the minimum duration of annual leave;
- approves the procedure for a secondment of an employee;
- determines the procedure for mass layoff of employees.

The Labor Code shall come into force on 30 April 2023.

The President signed the Law on Standardization

The President has signed the Law on Standardisation. The law introduces 3 types of standards: national standards, international (regional) standards and standards of foreign countries. The existing standards and relevant documents adopted before the new law came into force are considered to be national standards and shall be reconsidered within 5 years.

The Law on Standardization enters into force on 5 November 2023.

Digital labeling of water and soft drinks is being introduced

The Cabinet of Ministers approved the procedure for mandatory labeling of water and soft drinks. The requirement applies to local producers and importers. The labeling procedure and control measures will be introduced on a phased basis in 2023-2024.

Are you interested in any of the topics?

- We would be pleased to discuss with you the legislative changes and how they can impact your business;
- We can analyze and implement possible steps to ensure compliance with the new requirements.

If you are interested in additional information, please contact the respective PwC specialists.

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