

Coronavirus COVID-19 and Its Impact on Labor Relations in the Republic of Kazakhstan

Decree of the President of the Republic of Kazakhstan dated March 15, 2020 No. 285 "On the introduction of a state of emergency in the Republic of Kazakhstan" introduced a state of emergency, valid from 8:00 of March 16, 2020 to 7:00 of April 15, 2020. In connection with the introduction of a state of emergency, employees faced with issues such as switching to remote work or part-time work, downtime at the enterprise, etc.

In connection with the introduction of a state of emergency on the territory of Kazakhstan, employers are required to carry out sanitary and anti-epidemic and sanitary-preventive measures¹. Moreover, individual employers are required to:

- **comply with the requirements** of regulatory legal acts in the sphere of sanitary and epidemiological welfare of the population and hygienic standards, as well as acts and sanitary and epidemiological conclusions of officials exercising state sanitary and epidemiological control and supervision;
- **suspend** entrepreneurial and (or) other activities in the event they pose a threat to the life or health of the population;
- carry out disinfection, disinfection and deratization measures according to epidemiological indications and regulations, decrees of officials of the sanitary-epidemiological service **at their own expense**.

Due to the spread of coronavirus infection COVID-19 in the Republic of Kazakhstan, employees of many enterprises were put into the downtime mode, in accordance with para 10, article 1 of the Labor Code of the Republic of Kazakhstan (hereinafter – the Labor Code), a temporary suspension of work for economic reasons, technological, organizational, other industrial or natural nature.

With regard to the payment of downtime, the procedure for registering downtime and the conditions for paying for downtime for reasons beyond the control of the employer and employee are determined by labor and collective agreements and are set at a rate not lower than the minimum wage (from January 1, 2020, the minimum wage is 42,500 KZT).² In the event that the collective or labor agreements fix the amount higher, the employee has the right to demand it. If the employment agreement does not provide for payment of downtime, the employee is paid the minimum wage.

¹ para. 4 of Article 90 of the Code on People's Health and the Health Care System

² Art.112 of the Labor Code

Also, many employers can switch to remote work to reduce the risk of infection, which is a special form of the labor process outside the employer's location using information and communication technologies in the working process.³ At the same time, wages to employees will be paid in the usual amount, in accordance with the number of hours worked by the employee.⁴

At the same time, it is worth noting that the employer provides the employee with means of communication (communications) and bears the costs of their installation and maintenance.⁵ In case the employee uses his own means of communication on an ongoing basis, the **employer pays compensation**, the amount and procedure for payment of which is established by agreement with the employee. In practice, this transfer is regulated not by an act of the employer (order), but by notification on behalf of the Employer with an offer to the employee to switch to remote work and, if the employee agrees, an additional agreement is signed to the existing employment agreement. By agreement of the parties, the remote employee may be reimbursed for other expenses related to the performance of work for the employer (the cost of electricity, water and other expenses), fixed by the employment agreement with the employee.

Alternatively, by agreement between the employee and the employer, the employee may be assigned to a part-time, for example:

- 1) part-time; in other words, a decrease in the norm of the duration of daily work (work shift);
- 2) part-time work week; in other words, a reduction in the number of working days in a working week;
- 3) a simultaneous decrease in the standard duration of daily work (work shift) and a reduction in the number of working days in a work week⁶.

It is worth mentioning that this part-time working hours do not entail any restrictions for employees regarding annual paid leave, calculation of seniority, etc.

As for workers who visited the country with coronavirus and who were quarantined, their absence from work due to reasons beyond the control of the employee also fits the concept of "downtime". Workers in this category should draw up a temporary disability certificate without visiting a hospital. In this case, the employer must not remove the employee from work on the basis of acts of the relevant authorities⁷.

During a state of emergency, the employer often considers such an opportunity to save the organization's budget as vacation without pay. It should be remembered that this type of vacation is granted only by agreement of the parties, the duration of the vacation is also regulated by agreement of the parties between the employee and the employer, and based on the statement of the employee, and not the internal act of the employer⁸.

Thus, in order to prevent the spread of coronavirus among the population, the Employer, for his part, is obliged to create conditions for the employee at his workplace:

³ Para.1 Article 138 of Labor Code

⁴ Article 103 of Labor Code

⁵ Para 2 Article 138 of Labor Code

⁶ Article 70 of Labor Code

⁷ Article 48 of Labor Code

⁸ Article 97 of Labor Code

- provide him with personal protective equipment;
- comply with the sanitary-disinfection regime in the organization;
- ensure regular processing with the use of detergents and disinfectants of workplaces and premises, including alcohol-based antiseptic substances

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