



IN THIS BROCHURE
you will learn about:

- types of employment audit,
- results of employment audit,
- stages of employment audit,
- required documents.

... and will be offered
a little test.

ORDERING AND HIGH SPIRITS

—
RESULT
OF A COMPREHENSIVE
EMPLOYMENT AUDIT



1. TYPES OF EMPLOYMENT AUDIT

Employment audit may be divided into several types, depending on:

- audit **purposes**;
- **scope** of audited documents; and
- **auditing persons**.

Purposes	Comprehensive	Covers all key spheres of relations with employees (please see below)
	Limited-scope	For specific target directions
Scope	All-round	For all documents over the audited period
	Selective audit	Selection of documents: <ul style="list-style-type: none"> ■ random (as a rule, in case of many employees with relations of the same type) or ■ special (with respect to most vulnerable issues)
Auditing persons	Internal	Self-control
	External	Professionals share unbiased assessment and recommendations based on their knowledge of law and practice

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2. STAGES OF EMPLOYMENT AUDIT



Stage I:

Customer	Determines the purposes and objectives of the audit	<ul style="list-style-type: none"> ■ Internal control ■ Preparation to labor inspection ■ Change of owner/CEO, etc.
Customer and Contractor	Determine the scope and term of the audit	<p>The term of the audit mainly depends on:</p> <ul style="list-style-type: none"> ■ type of audit; ■ number of audited materials; and ■ geography and types of activities of organization. <p><i>The terms may vary from several days to several months.</i></p>
Customer	Provides materials for audit	<ul style="list-style-type: none"> ■ Determines the responsible person ■ Prepares and provides documents

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3. SUCCESSFUL AUDIT OF:

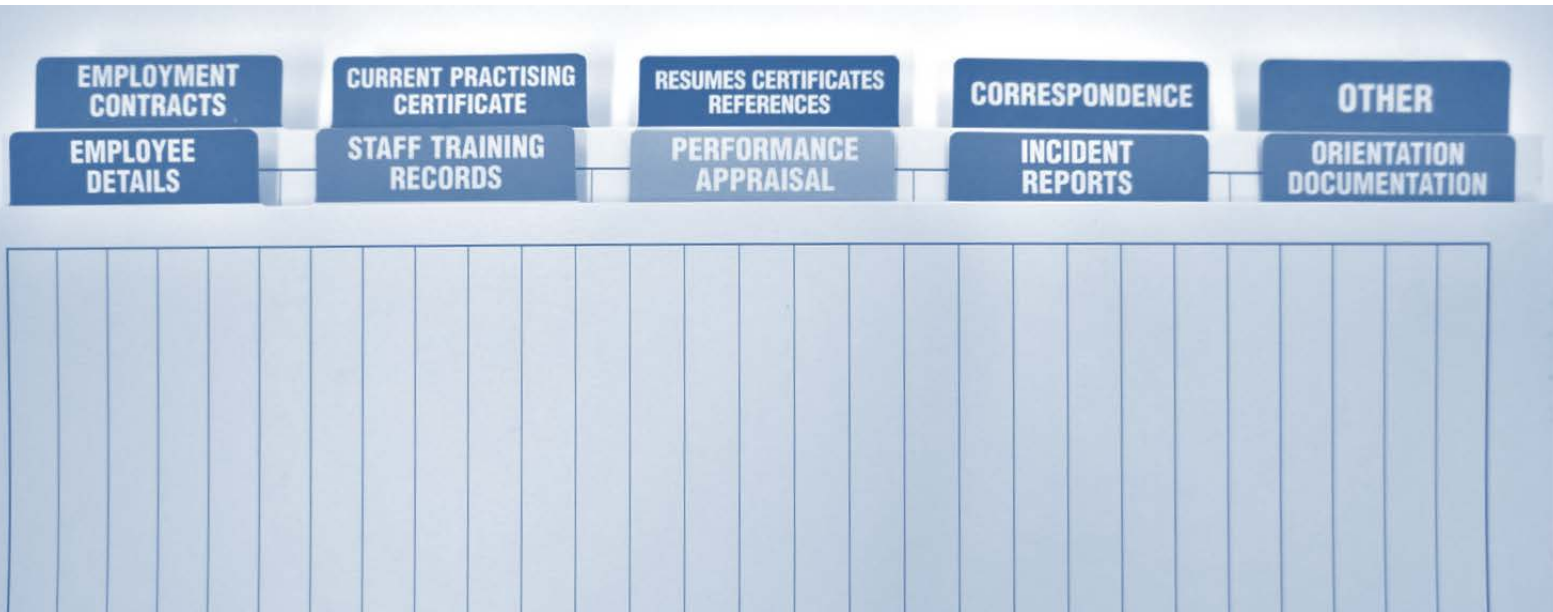
<p>■ Internal regulatory (permanent) employer's acts</p>	<ul style="list-style-type: none"> ■ Internal labor regulations ■ Labor remuneration and bonus regulations ■ Business trip regulations ■ Regulations on the use of transport vehicles ■ All other corporate documents of regulatory nature <p><i>If your global corporate policies have not been executed by an employer's act yet, you definitely need a labor audit.</i></p>
<p>■ Model forms of one-off employer's acts</p>	<ul style="list-style-type: none"> ■ Orders on business trips, leaves, hire for work, cancellation/termination of employment contracts <p><i>Please check whether your order on a business trip includes, among other conditions, the condition on the time and days of work and rest of an employee at the host organization, notices of restriction to send certain categories of employees on business trips and other protective provisions.</i></p> <ul style="list-style-type: none"> ■ Orders on bonuses <p><i>Depending on the manner the company's order is set out, bonus may or may not be included in average salary.</i></p> <ul style="list-style-type: none"> ■ Other orders on personnel and key activities
<p>■ Model forms of contracts and accompanying documents</p>	<ul style="list-style-type: none"> ■ Employment contracts (various types) and supplementary agreements (on various situations) <p><i>Approaches to formation of the text of an employment contract may differ: "to formally rewrite the code", "to download a model form from the Internet", "so that to have". We chose another approach and drafted the all-purpose form, which does not rewrite the code but uses</i></p>

	<p><i>its opportunities, "closes" its drawbacks and gaps, and responds to practical complexities and nuances.</i></p> <p><i>In our form, all individual conditions (labor function, term of contract, work and rest regimes, payment, special guarantees and compensations) are centered in one section in the form of a table, which is convenient for filling out and use.</i></p> <p><i>One form includes the conditions for different types of employment contracts, which may be selected when filling out information.</i></p> <ul style="list-style-type: none"> ■ Full material liability agreement and relevant order (list) ■ Non-compete agreement and relevant order (list) ■ Confidentiality agreement (obligation) ■ Training agreement
<p>■ Personal files of employees</p>	<p>Do personal files include all required documents? Are the documents filled out correctly? Are the documents kept in accordance with the established procedure? Are the documents stored in a proper manner?</p>
<p>■ Occupational health and safety system documents</p>	<p>This is a huge block. It covers not only instructions and training logs. It embraces documents on appointment of responsible persons (there must be at least 10 of them in an organization with respect to different directions), and documents forming the occupational health and safety system in the organization, documents on civil protection (including fire and industrial safety), documents on attestation of workplaces and other (great number).</p> <p><i>Of course, many documents are of technical nature and must be checked by technical specialist on OHS issues; however, the technical part must be dressed in a proper legal form, in the absence of which the technical part will not work.</i></p>
<p>■ Documents on conciliation board</p>	<p>Establishment of a permanent conciliation board is mandatory for all employers (with certain exceptions). Audit allows to check the documents on the establishment and functioning of the conciliation board on individual labor disputes.</p>
<p>■ Documents on employees' representatives</p>	<p>The employees' representatives are required for many processes, including coordination of documents on occupational health and safety, participation in the conciliation board, etc.</p> <p>Audit allows to check the documents on the election of the employees' representatives, scope of their powers and appointment of the employer's representatives.</p>

<p>■ Set of documents on protection, collection and processing of personal data</p>	<p>Protection is the first, because collection and processing are not allowed without protection of personal data.</p> <p><i>Please check whether you have the personal data protection system. Did you appoint a person responsible for organizing the personal data processing? Does a job description include respective obligations of such person? Do you have consents from employees and other persons to collection and processing of personal data? Is your storage of personal data localized? These are just few questions in the personal data sphere.</i></p>
<p>■ Set of documents on the use of a corporate electronic digital signature and electronic document management</p>	<p>To date, employers cannot fulfil legislation requirements without EDS; therefore, everyone needs EDS.</p> <p>Certain CEOs prefer not to give their EDS to other employees, but to issue registered corporate EDS.</p> <p>Certain employers, on the contrary, trust their employees and allow them to use the CEO's EDS.</p> <p>Both cases require documented regulation of the process of giving and using EDS.</p> <p><i>As regards the electronic document management, the question is not about email correspondence, but about a strictly formalized procedure (not a simple one from the standpoint of legislation) for signing and exchanging documents using EDS.</i></p>
<p>■ Correctness of introducing data into the unified accounting system of employment contracts</p>	<p>UASEC is not as simple as it seems to be. Audit will allow to check whether the positions are correctly identified according to the state reference book of positions, whether there are any excessive data introduced without the employees' consents, whether there are confirmations of proper introduction of data, etc.</p>
<p>■ Certain issues, cases and situations</p>	<ul style="list-style-type: none"> ■ Disciplinary liability ■ Regulation of labor of certain categories of employees (rotation workers, shift workers, remote work, women, disabled employees, etc.) ■ Payment of salary ■ Granting of leaves ■ "Environmental" benefits ■ Military registration ■ Analysis of disputable situations ■ As a matter of principle, almost everything may be checked

Average list of audited documents is set out in Annex 1 at the end of the brochure.

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4. DOCUMENTARY RESULT OF EMPLOYMENT AUDIT

The **result** may be:

- final documents prepared in the course of the audit;
- business effect.

According to your choice, **documentary result of employment audit** may be:

REPORT	Full legal opinion	<ul style="list-style-type: none"> ■ Detailed description of legal regulation ■ Description of drawbacks ■ Description of risks and liability ■ Recommendations
	Risk summary	<ul style="list-style-type: none"> ■ Description of drawbacks and risks ■ Recommendations
PERSONNEL DOCUMENTS		<ul style="list-style-type: none"> ■ Adjustment of available personnel documents (model forms, draft employer's acts, etc.) ■ New drafted documents

Basic composition of a report is set out in Annex 2 at the end of the brochure.

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5. BUSINESS EFFECT

We will not frighten you by state fines, for the avoidance of which it is better to conduct the employment audit.

[First, until 1 January 2023, there is a moratorium in Kazakhstan on inspections and preventive control and supervision with visits to small-scale business entities (including micro-scale business entities)¹.

Second, the question is not about fines (which are really imposed, and for a number of violations the fines are high).]

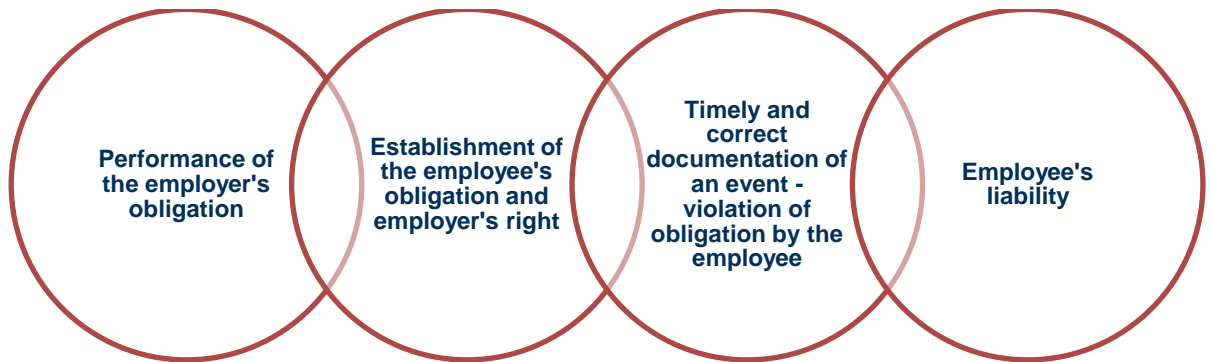
Main purpose of employment audit	– to put the personnel business processes into ordering
Ordering in documents means ordering in staff	– indisputable advantage of any organization
Employment audit	– strengthens discipline and loyalty of employees – forms the brand of a responsible employer

¹ Edict No. 229 of the President of the Republic of Kazakhstan "On Introduction of the Moratorium on Inspections and Preventive Control and Supervision with Visits" dated 26 December 2019. Please check your organization's business entity category at <http://www.elicense.kz> in Service/Information section.

Reliable "documentary back land" is:

<ul style="list-style-type: none"> ■ employer's long-term interests in the labor sphere 	<ul style="list-style-type: none"> ■ effective documentary support of corporate compliance
<ul style="list-style-type: none"> ■ mitigation of the risk of disputes with employees 	<ul style="list-style-type: none"> ■ mitigation of the risk of losing in a dispute with an employee
<ul style="list-style-type: none"> ■ mitigation/elimination of the risk of administrative fines 	<ul style="list-style-type: none"> ■ prevention of other unfavorable consequences of violating legislation

Please note that the **employer's interests** in relations with its employees and state are **securely protected**, if (1) **legislation is complied with**, and (2) the following **legal mechanism** is implemented and surely documented in the organization:



It is not necessary to bring the case to the employee's liability (which is rarely applied in practice); however, availability of other components of the mechanism is a guarantee of protection of the employer's interests in case of a conflict situation. Based on our experience, these components suffer the most in organizations.

High quality documentation in the labor sphere is of utmost importance for successful business.

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6. LITTLE TEST

We offer you to undergo a little test without searching for the answers on the Internet (or in our information letter) to make sure that the vanity of the past year has not made you miss the important changes of 2020 in the labor legislation.

No.	Question	Answer
1.	What information must be introduced by employers into UASEC?	
2.	What is the procedure for making an employee familiar with the employer's e-act?	
3.	Will you order a similar room in a 5-star hotel as occupied by the department director for your linear employee sent on a business trip if he/she asks you to do so?	
4.	Is there a conciliation board in your company? Who are its members?	
5.	How must a company pay for work in a situation where the night work coincides with a holiday or a day off?	
6.	What ground for the employment contract cancellation will you apply when dismissing an employee who used his/her official position for personal gain? Will you conduct an internal investigation to establish the fact?	
7.	Will you dismiss an employee called for compulsory military service?	
8.	Is it required to renew and how often must the employment contracts with the director and other executives be renewed?	
9.	What is the difference between the occupational health management system and the occupational risks management policy?	

Please send your answers to our PR Manager Yekaterina Chumachenko (ye.chumachenko@aequitas.kz), and we will let you know whether your answers are correct or not.

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Annex 1

APPLIED LIST OF AUDITED DOCUMENTS

Over the years of practice, AEQUITAS experts have determined the optimum set of documents for clients for a **limited-scope employment audit with selective inspection of personal files**.

10 case categories for review	20 key documents in personal files	30 additional documents
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Please see below

■ 10 case categories for review

For an audit, it is normally recommended to provide the following categories of cases*:

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| <ul style="list-style-type: none"> ■ Chief executive officer ■ Normal "office" contract ■ Substituting employee (employment contract for the period of substitution of a temporarily absent employee) ■ Second level substitution (substitution of an employee who substituted the key employee – relevant for women in a maternity leave) ■ Employee with an "old" employment contract (working for more than 5 years). | <ul style="list-style-type: none"> ■ Employee liable for military service ■ Remote work contract ■ Contract for the period of performing certain work, or contract with special (complicated) hiring conditions (rotation-based work, shift work, etc.). ■ Employee who was brought to disciplinary liability. ■ Recently dismissed employee based on a non-standard ground (i.e. not "for personal reason"). |
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* Categories of audited cases may vary depending on specifics of the audited organization.

■ 20 key documents in personal files

For the most efficient work, it is recommended that the files to be provided include as follows:

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| <ul style="list-style-type: none"> ■ Individual schedules for personnel records ■ Employment contract ■ Supplementary agreements with attached documents (on various issues – on extension, transfer, change of salary, etc.) ■ Confidentiality agreement/obligation ■ Full material liability agreement ■ Non-compete agreement ■ Job descriptions ■ Military registration documents (for persons liable for military service) ■ Labor book ■ Documents on making the employees familiar with internal labor regulations and other employer's acts ■ Documents on foreign employees ■ Documents on bringing to disciplinary liability | <ul style="list-style-type: none"> ■ Consent to collection and processing of personal data ■ Training agreement (in case of advanced training, if sent by the company) ■ Applications and orders on granting of various types of leaves ■ Orders to send on business trips (specifically relevant for women with children and other protected categories of employees, and when sending on a business trip on days off and holidays) ■ Documents on provision of car for the employee's use ■ Documents on participation of this very employee in the election of the employees' representatives ■ Documents on rotation-based/shift work ■ Documents on transfer to another job and/or changes in labor conditions |
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■ 30 additional documents

In the course of employment audit, AEQUITAS checks whether the documents forming personal files are in line with the employer's acts. For this purpose, a customer needs to provide the following additional documents (if any):

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| <ul style="list-style-type: none"> ■ Charter/Branch (representative office) regulations ■ Documents on appointment of CEO ■ Staff schedule ■ Organizational structure of the company ■ List of internal regulatory acts of the company ■ Internal labor regulations ■ Regulations on granting of leaves ■ Business trip regulations ■ Regulations on the use of a transport vehicle (car policy) ■ Bonus regulations ■ Personal data regulations and other documents regulating the issues of personal data processing (including the personal data lists and lists of responsible employees) ■ Personnel records regulations ■ Regulations on protection of confidential information ■ Approved file register ■ Collective bargaining agreement ■ Documents on election of the employees' representatives ■ Timesheet for analyzed employees ■ Documents on establishment and work of the conciliation board on individual labor disputes | <ul style="list-style-type: none"> ■ Approved list of positions for conclusion of non-compete agreement ■ Approved list of positions and approved model full material liability agreement ■ Leave schedule and documents on requesting the analyzed employees' opinions on the order of priority of leaves ■ Register of labor books ■ Documents issued to an employee in case of keeping the labor book in the company ■ Copies of notices to the migration authority of arrival and movements of a foreigner across the Kazakhstan territory over the past year ■ Forms and reports of the company on the issues of military registration ■ Company's notices to the employment authority concerning vacancies, for which the analyzed employees were hired ■ Documents on payment of per diems for the time of business trips of analyzed employees ■ Payroll excerpts (form) and documents on issuance of payroll excerpts to analyzed employees for the past year ■ Documents on bonuses to the analyzed employees ■ Information describing where and under which procedure personal files and labor books are kept |
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We may ask you to provide additional documents in the course of our work.

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Annex 2

EXAMPLES OF SECTIONS OF A STANDARD AUDIT REPORT

If you desire, it is always possible to apply a non-routine audit approach.

For reference, a standard report on the results of a **limited-scope audit with selective inspection of personal files** normally includes the sections listed below.

<ul style="list-style-type: none"> ■ Summary conclusion ■ Analysis of the employer's acts of regulatory nature (regulations, rules, instructions, orders, ordinances, etc.) 	<ul style="list-style-type: none"> ■ List of personnel documents, mandatory and recommended to be present in a company ■ Execution of personal files ■ Completeness of personal files
<ul style="list-style-type: none"> ■ Analysis of documents included in personal files and executed throughout the entire period of employment 	
<ul style="list-style-type: none"> ■ Hire for work ■ Employment contract (various types) ■ Changes in employment contract, including transfers ■ Execution of official duties of employees ■ Making the employees familiar with the employer's acts ■ Personal data issues ■ Material liability issues ■ Confidentiality issues ■ Non-competition issues ■ Military registration issues 	<ul style="list-style-type: none"> ■ Issues of employee training at the company's expense ■ Work regime ■ Leaves (various types) ■ Business trips ■ Provision of transport vehicles ■ Issues of disciplinary liability ■ Issues of foreigners' labor ■ Termination of labor relations ■ Introduction of data into UASEC ■ Other labor issues
<ul style="list-style-type: none"> ■ Analysis of individual drawbacks of each personal file 	<ul style="list-style-type: none"> ■ <i>Summary analysis by countries (for the audit of several jurisdictions)</i>

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Why AEQUITAS?

- Labor law practice of AEQUITAS** is one of the best in Kazakhstan. Starting from 2015, AEQUITAS is the affiliate of [Ius Laboris](#), largest alliance of the leading advisors in the labor, employment and pension sphere. Partner [Yuliya Chumachenko](#) supervises over the practice and is one of the best lawyers of Kazakhstan on labor law matters according to such international ranking guides as Legal 500, AsiaLaw Profiles and Who's Who Legal.

AEQUITAS provides labor law services and assists in solving intricate challenging issues of clients from different sectors of economy: power and primary sector, transport and pharmaceuticals, retail and production. The firm's lawyers are perfectly knowledgeable about specifics of regulation of relations with different categories of employees subject to peculiarities of specific types of activities.

AEQUITAS has extensive experience in successful resolution of labor disputes.

- Quality of services and work approaches.** According to ranking guides, clients and business partners, AEQUITAS is one of the most **client-focused** law firms of Kazakhstan.

We are used to providing **high quality** services and strive to avoid formal approaches. Our purpose is your business effect.

Looking forward to working with you.

Best regards,

AEQUITAS Team