

## International Labor & Employment Law Committee Newsletter

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Republic of Kazakhstan

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### **Mandatory Pension Contributions Required for Some Employees under Changes to the Law on Pension Provision as of January 1, 2014**

*Alexandr Chumachenko, Associate, AEQUITAS, Almaty, Kazakhstan*

Employers in the Republic of Kazakhstan will be required to make mandatory occupational pension contributions (hereinafter, the Contributions) on behalf of some employees, as a result of legislative changes to the Law on Pension Provision<sup>1</sup> which were effective from January 1, 2014.

According to Article 26 of the revised Law on Pension Provision, Contributions must be made by employers to the accounts of employees:

- a. whose occupations are provided for in the special List of Professions<sup>2</sup> (which includes, for example, mine workers, geologists, power engineers, etc.); and
- b. who work in labor conditions which have been confirmed as harmful (or especially harmful) by a production facilities attestation (hereinafter, the Attestation) made by the Employer and/or specialized organization.

The Contributions are accrued in the amount of 5% of an eligible employee's monthly income, in accordance with the procedure established by the Republic of Kazakhstan Government.<sup>3</sup>

Contributions are to be transferred to the Unified Accumulation Pension Fund on a monthly basis before the 25th day of the month following the month in which the employee is paid.

Accordingly, the first payments of Contributions (relating to employees' income for work performed in January 2014, which was payable within the first ten-day period of February 2014) were due to be made by employers before March 25, 2014.

Employers are exempted from paying Contributions for certain categories of employees (including persons who have reached retirement age; persons of the first and second disability groups in cases where the disability is ongoing) and in cases where the Attestation has identified no harmful (or especially harmful) labor conditions.

<sup>1</sup>RK Law No. 105-V "On Pension Provision in the Republic of Kazakhstan" dated 21 June 2013, as amended.

<sup>2</sup>Decree No. 1562 of the RK Government "On Approval of the List of Productions, Work and Professions of Employees in Whose Favor the Payers of Mandatory Occupational Pension Contributions Are to Make from Their Own Funds the Mandatory Occupational Pension Contributions" dated 31 December 2013.

<sup>3</sup>Rules and Timeframes for Calculation, Withdrawal (Accrual) and Transfer of Mandatory Pension Contributions and Mandatory Occupational Pension Contributions, approved by the RK Government Decree No. 1116, dated 18 October 2013; Rules for Determining Employee's Monthly Income Taken for Calculation of Mandatory Occupational Pension Contributions, approved by the RK Government Decree No. 849, dated 26 August 2013.

## **New Rules Implemented Under Personal Data Legislation**

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Rules for Determination of a List of Personal Data<sup>1</sup> and Rules of Protection Measures<sup>2</sup> have been adopted for the purpose of implementing the new Personal Data Law,<sup>3</sup> which became effective November 26, 2013.<sup>4</sup>

Under the new Rules for Determination of a List of Personal Data, each company that owns or operates a personal data database must independently establish a list of personal data that the company requires and that is sufficient for the performance of its functions and the tasks being implemented by the company, based on the purpose for which the company collects such data.

Companies must now appoint a person responsible for determining the list of personal data. The responsible person must analyze the tasks implemented by the company, following which they must prepare a proposal for the determination of the list of personal data. This proposal must be prepared within 30 calendar days of the appointment of the responsible person. The company must then consider the proposal of the responsible person, and decide whether to approve the proposal for list of personal data or return it for additional consideration. If a proposal is returned, the responsible person has five calendar days to resubmit it for the company's approval.

Pursuant to the Rules of Protection Measures, the owner or operator of personal data database must take the following actions from the time when personal data is collected until the data is destroyed or impersonalized, for the purposes of ensuring protection of such data:

- To ensure the protection of personal data in collection and processing, such personal data must be kept separate from any other information, specifically in how that information is recorded on information carriers (in the case of hardcopies, such personal data must be kept in a separate location, bookcase, safe; or in the case of electronic media, on separate information carriers);
- In collecting and processing personal data, it is necessary to specify places for storage (information carriers) and to establish a list of persons who may carry out the collection and processing of personal data or who will have access to such personal data;

During the period of storage of information carriers, appropriate conditions ensuring the safety of personal data and excluding unauthorized access must be observed. The owner or operator must independently determine what measures may be required to ensure safe conditions, and also to determine the list of persons responsible for the implementation of the indicated measures.

<sup>1</sup>Decree No. 1214 of the Government of the Republic of Kazakhstan, On the Approval of Rules for

Determination by the Owner and/or Operator of a List of Personal Data, Required and Sufficient for Implementing Tasks by them, dated 12 November 2013.

<sup>2</sup>Decree No. 909 of the Government of the Republic of Kazakhstan, On the Approval of Rules for Implementing by the Owner and/or Operator and also by a Third Party of Measures for Personal Data Protection, dated 3 September 2013.

<sup>3</sup>Law No. 94-V of the Republic of Kazakhstan, On Personal Data and their Protection, dated 21 May 2013.

<sup>4</sup>October 2013 *International Labor and Employment Law Newsletter*.