

COVID-19: Changes to Employment Law

Yerevan, Armenia
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i. Intro

Coronavirus disease (COVID-19) outbreak in mid-March of 2020 highlighted several gaps in the Armenian employment legislation, which forced local authorities to deal with introduction of amendments to the Employment Code of Armenia as a matter of urgency. The Armenian Government prepared the legislative package to amend and supplement the Employment Code that was approved by the National Assembly of Armenia in the second reading on April 29, 2020. This means that the adopted package will enter into force in the nearest future, after President Armen Sargsyan signs the amending law.

This alert aims to cover the upcoming amendments to the Employment legislation to let local businesses adjust their internal processes to the novelties. This alert should not be considered as legal advice and it is not recommended that one's decision-making is based exclusively on the information mentioned herein. Neither Ameria cjsc, nor the authors of this review bear any liability for the consequences of any decisions made in reliance upon the information provided herein. If you are looking for specific legal advice, please reach out to us at legal@ameria.am.

ii. Regulations on remote work and temporary changes in work conditions

The National Assembly of Armenia supplemented the Employment Code by Article 106.1, which allows employers to switch employees to remote work from a place other than workplace at the time of prevention or mitigation of the consequences of natural disasters, technological accidents, epidemics, accidents, fires and other circumstances of extraordinary nature, where it is impossible to work at usual workplace due to such circumstances. From now on, requirements as to notifying employees of change of workplace do not apply to the situation, where an employer transfers employees to a home-based model of working at the time of emergencies; while previously employer had to notify employees of such changes from 14 to 60 days in advance depending on the duration of employment. Where an employee cannot continue work due to emergency (whether at workplace or remotely) and employee has unused annual leave days, an employer must provide employee with annual leave upon his/her request.

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Article 106(1) of the Employment Code was restated and specified in more detail in a way to enable employer to transfer employee to another work at the same workplace and/or change structural subdivision of employee and/or change the name of employee position and/or work functions and/or working regime (work hours) for the period of up to one month by the employer's internal act, where it is conditioned by natural disasters, technological accidents, epidemics, accidents, fires and other circumstances of extraordinary nature or it is necessary to prevent or overcome the consequences of the above-mentioned circumstances.

iii. State supervision over compliance with employment legislation

Before the introduction of the novelties in question, no state authority to implement supervision over the observance of the Employment Code requirements existed. Initially, it was planned to delegate those functions to Health and Labor Inspectorate ("**Inspectorate**") starting from July 1, 2021. However, in light of the recent developments it was decided to provide the Inspectorate with powers to control adherence of the employment legislation by employers.

It should be taken into consideration that these provisions are of temporary nature and enable the Inspectorate to inspect employers only (i) at the time of natural disasters, technological accidents, epidemics, accidents, fires and other circumstances of extraordinary nature and (ii) at the written request of an employee. Starting from July 1, 2021, the Inspectorate will be authorized to inspect employers regardless of the existence of extraordinary circumstances and employee application.

The adopted package empowers the Inspectorate to penalize employers for, *inter alia*, non-compliance with employment law requirements and occupational health and safety technical regulations, non-payment of salaries and breach of work permit requirements.

iv. Prohibition to terminate the employment on the employer's initiative

The law adopted by the National Assembly prohibited termination of employment contract on the employer's initiative due to an employee's failure to show up to work at the time and due to natural disasters, technological accidents, epidemics, accidents, fires and other circumstances of extraordinary nature. According to the new regulations, the employer cannot terminate employment contract with the employee, who fails to show up to work due to the need to provide care for a child under 12 at the time of unplanned relocation or unplanned provision of holidays in educational institutions (including pre-school educational institutions).

v. Overtime

The amending law defines that employees may be involved in 8 hours of overtime during 2 consecutive days, if such overtime work is required to prevent natural disasters, technological accidents, epidemics and similar circumstances or overcome the consequences thereof. In any case, duration of daily work cannot exceed 12 hours (rest and meal break inclusive), while weekly working hours cannot be in excess of 48.

vi. Force majeure (irresistible force)

Another innovation of the Employment Code specified the definition of force majeure.

According to Article 186(7) of the Employment Code, force majeure occurs where performance of work duties (including remote work) is impossible due to temporary limitations in rights and freedoms of natural and legal persons imposed by law at the time of prevention of natural disasters, technological accidents, epidemics, accidents, fires, other circumstances of extraordinary nature or mitigation of the consequences thereof. We recall that existence of a force majeure event causing idleness enables employers not to pay employees for idle time.

vii. Compensation for work

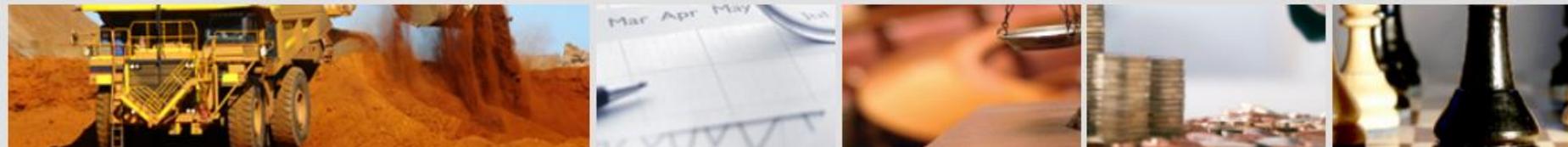
According to Article 187.1 of the Employment Code, if at the time of prevention of natural disasters, technological accidents, epidemics, accidents, fires and other circumstances of extraordinary nature or mitigation of the consequences thereof employee fails to show up to work or shows up to work part time due to the existence of the mentioned circumstances, the employee is at least payable the salary for actually worked hours or actually performed work. The salary for work done remotely at the time of emergency shall be paid in full.

The salary of the employee, who is absent from workplace for up to 2 hours during the working day due to the need to provide care for a child under 12 at the time of unplanned relocation or unplanned provision of holidays in educational institutions (including pre-school educational institutions), shall be paid in full.

viii. Disciplinary liability

The Employment Code was supplemented by several provisions excluding the disciplinary liability of employees. The acts that are not treated as disciplinary violations are as follows:

- An employee fails to show up to work or shows up to work part time due to natural disasters technological accidents, epidemics, accidents, fires and other circumstances of extraordinary nature at the time of prevention or immediate mitigation of the consequences thereof;
- An employee fails to show up to work or shows up to work part time due to the need to provide care for a child under 12 at the time of unplanned relocation or unplanned provision of holidays in educational institutions (including pre-school institutions).



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