



CONTINENTAL Law Firm

Kazakhstan

A business law services

**The procedure for termination of employment relations
in case of closing a business in Kazakhstan**

November 2021

Introduction

CONTINENTAL Law Firm provides a full range of legal services to individuals, including individual entrepreneurs, legal entities and state.

We specialize in providing legal services in various areas of commercial activity with a focus on such areas as M&A deals, corporate and contracts law, employment law and dispute resolutions.

CONTINENTAL Law Firm pays special attention to professional ethics and confidentiality. Our lawyers have extensive experience working with both Kazakh and foreign companies with a global reputation.

With our many years of experience and professionalism, our lawyers guarantee the provision of legal services at the highest level.

The procedure for termination of employment relations in case of closing a business in Kazakhstan

Grounds for termination of employment relations

One of the grounds for termination of an employment agreement at the initiative of the employer is its liquidation, reduction of the number of employees, as well as a decrease in the volume of production, work performed and services rendered, which led to a deterioration in the economic condition of the employer.

Please note that the liquidation of a branch or representative office of a legal entity registered in the Republic of Kazakhstan would not be considered as a grounds for termination of an employment agreement due to its liquidation. However, in this case, the employment agreement may be terminated at the initiative of the employer due to a reduction in the number of employees.

Termination of an employment agreement due to a decrease in production volume is possible only if there are a set of conditions: (i) closure of a structural unit (workshop, site); (ii) inability to transfer an employee to another job; (iii) written notification of employee representatives at least one month in advance. At the same time, the employer must confirm his financial insolvency, provide evidence of the deterioration of the economic condition.

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Limitation of termination of the employment agreement at the initiative of the employer

According to the current labor legislation of the Republic of Kazakhstan, in case of liquidation of the employer, termination of the employment agreement at the initiative of the employer is not allowed in the following cases:

- with a pregnant women;
- with women with children under the age of three;
- with single mothers raising a child under the age of fourteen (a disabled child under the age of eighteen);
- with other persons raising the specified category of children without a mother.

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Procedure for termination of employment agreement

According to the legislation of the Republic of Kazakhstan, when liquidating a legal entity or reducing the number or of employees, the following requirements must be met:

- making a decision on the liquidation of a legal entity/reduction of the number of employees;
- to provide information to the authorized employment agency about the upcoming release of employees at least one month before the start of the release;
- to notify the employee in writing of the termination of the employment agreement in case of liquidation at least one month before, in case of a reduction of the number of employees and decrease in the volume of production - fifteen working days, or within the period established by an employment or collective agreement;
- to formalize the termination of employment relations;
- to make all payments due in favor of the employee, including compensation in connection with the loss of work in the amount of the average monthly salary.

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Please note that in the event of the above situations, notification of the employee is required. The methods of notification are provided by the legislation of the Republic of Kazakhstan.

The fact of termination of employment relations in one of the above situations must be recorded in the unified system of accounting for employment agreements (hereinafter referred to as the "USAEA") or other information systems integrated with the USAEA (www.enbek.kz).

The employer must make every possible effort to transfer the employee to another job in the event of termination of the employment relationship due to a decrease in the volume of production, work performed and services rendered, which led to a deterioration in the economic condition of the employer.

In the event of a reduction in the number of employees, it is necessary to take into account the features of termination of employment agreements with the following categories of employees set by law:

- who have less than two years left before reaching retirement age (for women - 58 years and men - 63 years);
- members of elected professional union of employees bodies who are not exempt from their main work.

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Termination of the employment relationship must be carried out within the time limits strictly established by law.

The termination procedure includes the following steps:

- ☐ to issue the employer's act on termination of the employment agreement;
- ☐ delivery of a copy of the act of the employer to the employee in person or by sending a notification letter by mail;
- ☐ issuance of a document confirming the employee's work activity;
- ☐ issuance of a certificate from the place of work, as well as characteristics-recommendations (at the request of the employee);
- ☐ in case of liquidation, bankruptcy, in the presence of debt to the employee, the issuance of a certificate on the amount of the resulting wage arrears and other payments, duly executed by the employer-legal entity.

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When terminating an employment agreement with employees, it is necessary to take into account:

- ✓ Provisions of internal acts of the employer, including the rules of internal labor regulations, collective agreements (if any), employment agreement, applicable general, regional, sectoral agreements of the parties to the social partnership, which may establish additional requirements for the termination of employment agreements, compensation payments, guarantees, etc.
- ✓ The presence of other grounds for termination of employment relations with employees (expiration of the employment agreement, on the initiative of the employee, etc.).
- ✓ Registration of the transfer and acceptance of documents, including the return of the issued powers of attorney to represent the interests of the employer, material assets (personal computer, router and others), personal pass.
- ✓ The obligation of the employer to ensure the safety and submission to the state archive of documents confirming the labor activity of employees.

In order to minimize/mitigate risks, both the procedure for termination of an employment agreement and the norms of substantive law as grounds for such termination are subject to strict compliance.

Committed violations may cause:

- (i) administrative responsibility to the employer;
- (ii) the employee's appeals for the protection of violated rights first to the Conciliation Commission (pre-trial settlement procedure) and, in case of dissatisfaction with the dispute, to the court.

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Eldar Babayev is a US educated corporate and M&A lawyer with many years of professional practice experience in the international law firms **Macleod Dixon and the Norton Rose Fulbright**. Since 2008 Eldar actively advises clients in **Kazakhstan, Central Asia and the Caspian region**.

In 2020 Eldar together with the other partners established the **CONTINENTAL Law Firm**.



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Yelena Maksimenko is a highly regarded corporate lawyer with more than 20 years of professional practice experience. For more than 11 years Yelena worked in the international law firms **Salans and DENTONS**.

Yelena advises on corporate, antimonopoly, employment and dispute resolution legal matters.