



Legal alert

Overview of key legislative changes in November 2019

Electronic registration of employment relations starting from January 2020

The president has signed a resolution detailing measures to create an Integrated National Employment System ("INES"), which will develop and upgrade the e-government service, including the range of state services aimed at improving administrative procedures.

The INES will be used to:

- **register employee relations** between employers and employees **electronically**;
- form an **electronic database** of employer staffing tables, workplaces, working conditions and salaries;
- generate and maintain data on individuals' work activities in electronic work books;
- generate objective, transparent and relevant information automatically on the quantity and levels of staff and employees, vacancies;
- create a daily updated balance of employee resources, broken down into categories, those able to work and those not.

Thus, from 1 January 2020, the UNLS will be responsible for issuing work books, registering new employment contracts, addendums to existing contracts and terminating the same.

Presidential resolution establishing a Council of Foreign Investors

On 13 November 2019, to improve the investment climate and attract foreign direct investment to priority sectors of the economy and organise a high-quality investment process using international best practices, the president has signed a resolution introducing measures

to create and organise a Council of Foreign Investors under the President of the Republic of Uzbekistan.

The Council of Foreign Investors (the "Council") is an advisory body composed of leaders and representatives of foreign companies, banks, investment and other structures, international financial institutions and foreign governmental financial organisations, including the European Bank for Reconstruction and Development.

Its objective are to consult the government and ensure effective interaction between the authorities and business entities.

The Council operates in the form of plenary (once a year) and intermediate (at least twice a year) sessions.

Criminal liability for violating residency regulations in Uzbekistan have been abolished

The Uzbekistan Criminal and Administrative Liability Codes have been amended by a Law amending a number of legislative acts following the liberalisation of the liability of foreign nationals for violating the rules of temporary stay in Uzbekistan.

Article 224 of the Criminal Code, covering criminal liability for repeated violations of Uzbekistan residency rules in the form of imprisonment for up to 3 years has been repealed.

Following the changes, the fine for a foreign national living in Uzbekistan without proper (temporary or permanent) residence documentation or with a deliberately damaged/lost residence permit has decreased. The current fine ranges from 1/2 to 3 times the Base Calculation Rate (BCR) or approximately 12 to 70 USD, down from 50 to 100 BCR. For a repeat violation of the rules within the same year, the new fine is 5 times the or approximately 118 USD).

The fine amount now also depends on the duration of the violation:

- up to 10 days – **5 BCR (approximately 118 USD)**
- over 10 days, but not exceeding 30 days – **10 BCR (approximately 235 USD)**
- over 30 days – **20 BCR (approximately 470 USD)**

If a foreign national fails to pay a fine for violating Uzbekistan migration rules, they will be deported from Uzbekistan and not be permitted to re-enter the country for a period of one year.

New edition of the Banks and Banking Activities Law

On 5 November 2019, a Law was adopted amending the Banks and Banking Activities Law.

According to the changes, **the minimum authorised capital of banks should be 100 billion Uzbek sums.**

The new law also lists those activities that are **prohibited or restricted for banks**, such as manufacturing, trading and insurance.

It introduces the following concepts:

banking groups - an association of financial institutions that are not legal entities, where a main bank has control over financial institutions.

systemically important bank - a bank on whose activity the stability of the banking system depends.

The Law also regulates interbank operations, customer relations, loan interest rates, deposits, and guarantees of loan repayments.

The new version of the law includes:

1) a new prudential requirement and risk management chapter. Banks must now comply with prudential standards, calculation and measurement procedures established by the Central Bank (CB), such as:

- capital adequacy ratios;
- maximum risk per borrower or group of related borrowers;
- the maximum value of large credit risks and investments;
- concentration ratios by sector; liquidity ratios;
- maximum risk for bank related parties;
- maximum unsecured loan (blank loan) amounts;
- requirements for the classification and assessment of bank asset quality;
- the formation of reserves for possible losses on bank assets created based on their classification;
- claims on interest on bank assets and their credit to bank income;
- the maximum value of acquired shares in the authorised capital (authorised capital) of legal entities;
- requirements for the acquisition and ownership of real estate and other property;
- open currency position limits;
- other prudential standards established by the CB in accordance with generally accepted international practice.

2) an expanded list of financial transactions, which now also includes factoring, the purchase and sale of refined precious metals and precious coins, operations with derivatives, the circulation of electronic money and others.

3) new provisions on the assessment of a potential purchaser of bank shares, including new provisions to ensure compliance with anti-terrorism law (for example, the absence of suspicions of money laundering, the financing of terrorism and the proliferation of weapons of mass destruction).

Under the new law, all individuals and legal entities (residents and non-residents) acting jointly must obtain preliminary CB approval if an interest acquired as a result of one or more operations is from 5 to 20%; from 20 to 50%; 50% or more. The CB has the right to require additional documentation and information at its discretion.

Moreover, if the acquisition of bank shares requires the prior consent of the antimonopoly authority, the CB will consider an application to obtain preliminary permission to acquire bank shares taking into account the decision of the antimonopoly authority.

4) new provisions requiring bank compliance with legislation governing money laundering, the financing of terrorism and the proliferation of weapons of mass destruction.

5) additional restrictions on bank activities. Banks are no longer permitted to purchase shares of legal entities if by doing so they exceed 15% of the authorised capital of a first-tier bank. Operations with securities, acquired shares or shares in general should not exceed 50% of the regulatory capital of a first-tier bank. In addition, a bank cannot participate in the authorised capital of a legal entity that owns 1% or more of the authorised capital of the bank in question.

6) new provisions on measures and sanctions used by the CB for violations of bank and banking activity law.

Under the new law, the type and size of sanctions depends on the nature of the violation, which are classified as gross, serious or minor. Banks can lose a license for gross violations, such as the non-disclosure of information on ultimate beneficiary owners and violation of the requirements of bank confidentiality law, and legislation covering money laundering, the financing of terrorism and the proliferation of weapons of mass destruction.

Under the new law, liability (fines) rests not only with the banks themselves, but also with supervisory board and board of directors members and key employees, i.e. employees who are not members of the board, but whose positions can have a significant impact on the bank.

Bank fines:

Fines on banks are based on income received from financial transactions committed in violation of bank and banking activity law, and vary from 1 to 2 times the amount of income (when quantifying such income) or as a percentage of net profit earned by the bank for the previous financial year, in the range of 1% to 5%, or as a percentage of total bank capital ranging between 0.1% and 1%.

Fines on Supervisory Board and Board of Directors' members and key employees:

Fines are based on remuneration received for the year preceding the month the fine was imposed. The new version of the law also refers to fines imposed by the CB for violating bank and banking activities law.

The CB is authorised to impose measures and sanctions on banks, supervisory board and board members, and on key bank personnel responsible for gross, serious, and minor violations as specified in the Law.

New version of the Central Bank Law

The new version of the Central Bank Law establishes the legal status, powers, functions and organisation of CB activities.

Under the new version of the law, CB employees are not entitled to:

- engage in any other types of paid activity, with the exception of scientific and teaching activities
- act as members of the supervisory boards of banks, business administration bodies and business entities

- disclose or use in the interests of third parties information constituting a bank secret or other information, access to which is limited in accordance by law, and which is known in connection with official duties

CB employees may not be hired to audit the financial and economic activities of business entities.

CB employees are only liable for actions (inaction) committed in bad faith in the performance of their duties. The CB guarantees legal protection for its employees and will pay the cost of representing their interests in litigation related to their activities.

New Law on Payments and Payment Systems

The Law *On Payments and Payment Systems* was published on 1 November 2019, and entered into force three months after the date of its official publication.

The law stipulates the structure and functioning of the state regulation of payment systems and the payment services market, and electronic money.

The CB is responsible for supervising payment systems and the payment services market, as well as the licensing of payment system operators and payment organisations.

From December, imported cigarettes and alcohol products will be labelled with means of identification

According to a Resolution of the Cabinet of Ministers dated 23 November 2019, from 1 December 2019, alcoholic products and cigarettes, both manufactured locally and internationally, will be labelled with means of identification.

The main objectives of the resolution are to:

- combat the illegal import and production of cigarettes and alcoholic products in the country

- implement a plan for the phased implementation of the labelling of goods through means of identification

Increased protection and guarantees for bank customers

According to amendments to regulations on the minimum requirements for commercial bank activities in the implementation of relations with banking service customers dated 22 November 2019 (No. 3030-3), banks are required to:

- notify account holders of the reasons for debiting funds from their bank accounts no later than the business day following the withdrawal of funds;
- lift bans on mortgaged property and exclude records of bank rights to mortgaged property from the mortgage register within 3 days of the contractual full repayment date of an outstanding loan;
- not limit borrower and/or pledge holder rights to choose an insurance company and/or appraiser;
- in loan agreements between a bank and legal entity borrower, indicate the choice of the borrower-legal entity to receive a loan in foreign currency and the consequences of that choice (increase in the credit burden in the national currency as a result of exchange rate changes).

Rules for appealing and applying for trademark recognition to the Board of Appeal of the Ministry of Justice

By order of the Ministry of Justice, Rules for appealing and applying for the recognition of trademarks in Uzbekistan to the Appeal Council of the Ministry of Justice have been approved.

Appeals and applications to the Board of Appeal are submitted in person or through representatives, including patent attorneys registered with the Intellectual Property Agency of the Ministry of Justice.

Appeals or applications are considered at a meeting of the Appeal Board, which is composed of the Chairman of the Board of Appeal (Minister of Justice), a deputy, council members and its secretary.

The Appeal Board will be responsible for upholding (in full or in part) or dismissing appeals, and issuing decisions on the recognition of or refusal to recognise well-known trademarks in Uzbekistan.

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