

## ***New Work Permit Rules***

***edition №21***



### **Significant changes to work permit regulations will come into effect on 1 January 2017**

#### **1. Executives of branches and representative offices**

Executives of branches and representative offices (of foreign companies) did not need work permits (WPs) pursuant to current WP rules. Effective 1 January 2017, executives will be required to have valid WPs. Citizens of Russia, Kyrgyzstan, Armenia and Belarus (members of the Eurasian Economic Union) are exempt from this requirement.

#### **When to apply for a work permit?**

Currently the new WP rules do not envisage a transition period. The rules imply that existing expatriate heads of branches and representative offices must apply for WPs as soon as possible on / after 1.1. 2017.

A significant number of branches and representative offices have executive positions held by foreign nationals

Government officials met with representatives of business on 24 November in Astana in a discussion initiated by the Kazakhstan Foreign Investors' Council Association ("KFICA"). Business raised a number of concerns, including the fact that no transition period exists in the new WP rules allowing expatriate heads of branches and representative offices (of foreign companies) to apply for WPs without the risk of violating the new legislative requirement.

The officials stated at the meeting that in order to address concerns a number of steps are being considered which will allow expatriate executives, heads of representative offices and branches (of foreign companies) to:

- apply for WPs from 20 December 2016;
- use valid work visas to travel freely to and from Kazakhstan.

It was also proposed that those executives whose work visas expire imminently, should, where possible, apply to renew their work visas before 1/01/2017 for a maximum term of up to three years. These executives will be able to work and travel freely to and from Kazakhstan without applying for a work permit for the duration of the validity of their work visas.

Government representatives also said at the meeting in Astana that they are proposing a number of steps aimed to exclude from the new rules the requirement for executives of branches and representative offices (of foreign companies) to apply for WPs.

We would like to draw your attention to the fact that all above initiatives were not yet formalised and remain at the level of discussion between the government and business communities. PwC will be happy to inform clients about further developments with regard to this matter and changes to immigration rules.

## 2. Direct hire and secondment

The new rules will differentiate applications for:

- direct hire and/or secondments and
- inter-corporate transfer (see 3 below).

The changes include:

- a fee for WP applications and renewal of WPs. The amount will depend on the industry sector and category of employee. Fees will vary from approximately \$ 850 to \$1,500 (with certain exceptions);
- the WP process has been simplified and will take no longer than 7 business days from the date of application;
- cancellation of the requirement to make a guarantee fee deposit to ensure departure on expiry of the WP;
- cancellation of specific conditions to be performed by the host company (e.g. training, re-training of local personnel, adding new vacancies);
- under the new regime, WPs could be applied for locally, and cannot be used for work in two or more regions as in 2010-2015.

## 3. Inter-corporate transfer arrangement

This is a temporary transfer of an expatriate, having the position of CEO, manager or specialist from a foreign company to its Kazakh representative office, branch or subsidiary. It applies only to a transfer from companies incorporated in World Trade Organisation (WTO) member countries.

One of the new requirements for the expatriates introduced by the new WP rules is having Kazakh language skills on an elementary level. Test certificates could be obtained from specialised language centres KAZTEST in Astana. We supported views of business communities that such requirement, if introduced will be viewed as discriminatory and against Kazakh Constitution's core principles.

We understand a Vice Minister of Healthcare and Social Development instructed the Committee of labour, social protection and migration to remove this requirement from the new WP rules.

## Other

We will be pleased to assist you with any questions concerning the new immigration rules, to apply for work permits and advise on the options for attracting expatriate employees for work in Kazakhstan.

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