

August 2019

In this issue:

1. The resolution of the Cabinet of Ministers on rules of registration of legal entities, engaged in Employment Intermediation Activity and requirements for those legal entities.
2. The resolution of the Cabinet of Ministers on rules of conducting supervision in the fields of employment.
3. The resolution of the Cabinet of Ministers on rules of payment of mediation expenses from the state budget.
4. The Law on Agricultural Insurance.
5. The resolution of the Cabinet of Ministers on returning of the overpaid taxes, state social insurance fees and benefits on unemployment, interests and financial sanctions.

...

1. Rules of registration of legal entities, engaged in employment intermediation activity and requirements for those legal entities are prepared on the basis of the "Law on Employment" and define rules of registration of the legal entities engaged in intermediation activity of employment of jobseekers and unemployed people in the Republic of Azerbaijan and on employment of citizens of the Republic of Azerbaijan in foreign countries.

The Ministry of Labor and Social Protection of the Population of the Republic of Azerbaijan implements registration process of legal entities in electronic form with the objective of establishment of sole database.

In addition, according to the Rules, intermediation activity of employment of jobseekers and unemployed people in the Republic of Azerbaijan and on employment of citizens of the Republic of Azerbaijan in foreign countries may be realized only by legal entities.

The following information shall be included into the Registry:

- name of the legal entity;
- legal address, current address and contact number of the legal entity;
- organizational form of the legal entity;
- Tax Payer Identification Number, Registration number of non-commercial organization;
- Name, last name, father's name, nationality and address of each representative of legal entity;
- Location of subsidiaries of legal entity in and out of the territory of the Republic of Azerbaijan, organizational form and registration data;
- Information whether legal entity is at the liquidation process or not.

Requirements for legal entities engaged in employment intermediation activity:

- They shall be registered and the type of economic activity shall be an employment intermediation activity
- They shall provide mutual information exchange with the Ministry of Labor and Social Protection of the Population

of the AR in electronic form related to data on employment of unemployed people and jobseekers.

- Legal entities engaged in Intermediation activity of employment of citizens of the Republic of Azerbaijan in foreign countries and employment of foreigners and stateless people in the Republic of Azerbaijan should follow the rules of Migration Code of the Republic of Azerbaijan.

•••

2. According to the Rules on "Conducting supervision in the field of employment" approved by the Cabinet of Ministers, the State Employment Service controls compliance with the requirements of normative legal acts in the field of employment by individuals and legal entities, including the branches and representative of foreign legal entities. The supervision is carried out in the following forms:

- Ordinary or extraordinary inspections;
- monitoring of information in the field of employment.

Ordinary and extraordinary inspections are conducted in compliance with the law on "Regulation of inspections in entrepreneurship and protection of entrepreneurs' interests."

Monitoring in the field of employment consists of collecting and obtaining information and taking measures on results of monitoring.

Moreover, infringements discovered in the process of monitoring are presented to the appropriate bodies for application of relevant measures.

Employers, in turn, shall present decision whether the workplace is vacant or not to the Service within 5 work days from the date of obtaining request from the State Employment Service and provide Service with official information in advance considering warning period of Labour Code of the Republic of Azerbaijan related to the number of employees, profession of employees in case of reduction by indicating the amount of salary. Failure to provide reports about vacant places entails imposition of penalty in amount of 50 manats.

Centralized Electronic Information System shall also be informed by the employers about the data related to vacant workplaces including salary within 5 work days since a position becomes vacant.

3. According to the rules on "Payment of mediation expenses from the state budget", mediator and mediation organization should submit documents mentioned below to the Council of Mediation in order to be funded from the state:

1. copy of the application of individual who is not able to pay mediation expenses;
2. copy of the confirmation of document being not able to

pay mediation expenses (given by the Ministry of Labor and Social Protection of the Population of the Azerbaijan Republic);

3. copy of the reference regarding to the "Failure to continue the process after the initial mediation session" or copy of the contract on "Application of mediation process";
4. report on expenses incurred;

The Council of Mediation shall review the aforementioned documents within 10 (ten) working days from the date of the submission. In case of any shortcomings on documents, the mediator or mediation organization shall be notified about this within 5 (five) working days. The shortcomings shall be eliminated within 5 (five) working days from the date of receipt of notification.

Payment of mediation expenses from the state budget shall be rejected in following cases:

1. required documents are incomplete;
2. the submitted documents contain distorted information.

•••

4. In order to organize and develop the agricultural insurance system, the law on the agricultural insurance has been adopted.

The subjects of this of the agricultural system are the governing body, independent experts, intermediary agricultural insurers, agricultural insurers.

The following risks shall be insured according to this law: natural disaster, fires, plant diseases, infectious diseases, the attack of wild animals, the action of third parties.

One of the aspects which shall impact the development of agricultural insurance is an existence of provisions concerning the profits of agricultural insurance body: it shall manage the profits on the planning of long-term insurance reserves, paying the next insurance premiums which is to be paid by the insured and the state budget. So, the body shall pay the premiums instead of farmer, however later they shall be reimbursed by the farmer.

Thus, this law shall accelerate the formation of an agricultural insurance system and ensure the sustainability of agricultural production.

•••

5. This resolution grants the taxpayers and the insurer to return back the overpayments, made to the state budget. According to this resolution, the taxpayers shall be entitled to require the return of the wrongfully overpaid taxes, interests and

financial sanctions made to the state budget, during 3 years after the end of the tax reporting period or consider as paid the other taxes, rates, financial sanctions and administrative penalties, or consider as paid the payments of subsequent obligations during 5 years after the end of the tax reporting period.

The insurer shall also be entitled to require the return of the wrongfully overpaid unemployment benefits and interests, made to the state budget or consider as paid the administrative penalties on avoidance to pay unemployment benefits and breach of the legislation of the unemployment insurance, or consider as paid the payment of subsequent obligations concerning unemployment insurance during 5 years after the end of the tax reporting period.

Moreover, the property tax on state property to be privatized from January 01, 2019 till January 01, 2022 shall be returned to the taxpayer or shall be considered as a fulfillment of the subsequent obligations.

•••

BHM Legal Update is organized by themes about major legal processes which aim to alert businesses
About significant laws, legislative changes and landmark court decisions.
This material should not be construed as legal advice or legal opinion.

FOR MORE INFORMATION:

"SKS" Plaza, 7th floor, 49 Fuzuli Str., AZ1014

T. (+99412) 4800088

office@bhm.az

www.bhm.az

©BHM Law Firm LLC. All rights reserved.