

LAW OF THE REPUBLIC OF AZERBAIJAN ON LABOUR MIGRATION

This Law defines the legal, economic and social basis for labour migration processes in the Republic of Azerbaijan and regulates the labour migration relations.

GENERAL

Article 1

Definitions

Principle definitions used in this Law are as follows:

Labour Migration means changing the place of residence by physical persons to perform disbursed labour activities.

Domestic labour migration means changing the place of residence by physical persons within the territory of the Republic of Azerbaijan to perform disbursed labour activities.

Labour Migrant means a physical person migrating from one country to another to perform disbursed labour activities.

Labour migrant's family member means a person who is considered a member of the family in accordance with the legislation of the Republic of Azerbaijan

Volatile labour migration means daily movement of the persons, permanently residing in frontier area points, to and from the neighbouring country for the purpose of the performance of labour activities.

Article 2

Labour migration legislation

The labour migration legislation consists of the Constitution, present Law and other normative legal deeds of the Republic of Azerbaijan and intergovernmental international treaties of the Republic of Azerbaijan.

Article 3

Persons to whom this Law does not apply

This Law does not apply to the following persons performed labour activities:

- who permanently reside in the country of employment
- who have a refugee status
- who have got a political asylum
- who have registered and acted as a private businessman
- managers of the organisations established under international agreements
- employees of diplomatic representations and consulates
- employees of international organisations
- who are on a business travelling

- who perform religious activities in the officially registered religious organisations and societies
- who take practice during a period of holiday within the framework of higher educational programmes
- accredited employees of media
- sailors
- artists and actors
- professors, lecturers and teachers invited to higher educational institutions

II. LABOUR MIGRATION OF ALIENS AND STATELESS TO THE REPUBLIC OF AZERBAIJAN

Article 4

Principal conditions in respect of labour activities of aliens and stateless in the Republic of Azerbaijan

Every able-bodied and over 18 years old alien or stateless (hereinafter referred to as alien) is entitled to perform labour activities within the territory of the Republic of Azerbaijan. Principal conditions for performing labour activities by aliens involve: (i) existence of a job vacancy that is not demanded by a citizen of the Republic of Azerbaijan having skills and qualification required for such job, (ii) inability of employment services to meet employers' need in manpower at the cost of local labour resources, and (iii) labour migration related international treaties, to which the Republic of Azerbaijan is a party.

Article 5

Labour activities of aliens

Aliens residing outside the Republic of Azerbaijan or temporarily residing in the territory of the Republic of Azerbaijan may be employed by legal entities or physical persons registered in the Republic of Azerbaijan in accordance with the established procedure. To employ aliens, the legal entities or physical persons should obtain a licence-permission.

Aliens shall be entitled to work in the territory of the Republic of Azerbaijan after obtaining an individual permission for performance of labour activities.

In case of being employed as a manager or a deputy manager in the organisation, which is a legal entity of the Republic of Azerbaijan, an individual permission may be provided to an alien without requiring a license from employer.

Article 6

Individual permissions for labour activities

The individual permissions shall be provided by the relevant executive powers of the Republic of Azerbaijan to aliens to perform labour activities.

The aliens may apply to the relevant executive powers of the Republic of Azerbaijan through legal entities or physical persons, which are intended to employ them, for individual permission to perform labour activities.

The following documents certified by notarial or other equivalent to it order shall be attached to an application of aliens for individual permission to perform labour activities:

- application
- copy of licence
- documents testifying qualification required for performing supposed work
- formal invitation of employer to alien
- document grounding the necessity to employ the alien in the Republic of Azerbaijan

The applications for individual permission to perform labour activities shall be considered within one-month period.

Article 7

Terms of individual permissions for labour activities

The term of individual permission to perform labour activities shall be accorded to the term of labour contract, but not exceed one year.

The term of individual permission to perform labour activities may be prolonged each time for one-year period more, but for four years totally.

Article 8

Reasons to deny individual permissions for labour activities

The individual permissions for performance of labour activities shall be denied in the following cases:

- absence of the relevant licence of employer, except the cases set out in par. 3, Article 5
- submission of false documents
- non- completion of submitted documents
- absence of grounds to employ the alien in the Republic of Azerbaijan and of possibility to meet a need of employer in manpower at the cost of local labour resources
- when arrival of alien in the Republic of Azerbaijan is not possible under the circumstances stipulated by the laws

Article 9

Provision of licence and its terms

A licence for employment of aliens in the Republic of Azerbaijan shall be provided to legal entities and physical persons by the relevant executive powers in accordance with the legislation of the Republic of Azerbaijan.

The term of such licence given to legal entities and physical persons shall not exceed one-year period. Extension of licence term shall be carried out in accordance with the procedure of its provision.

Article 10

Status of the labour migrants in the Republic of Azerbaijan

The alien arrived in the Republic of Azerbaijan and performing labour activities in the Republic of Azerbaijan under conditions of this Law shall be officially considered a labour migrant.

The individual permission given to the aliens to perform labour activities shall be considered a document attesting a labour migrant status.

Article 11

Regulations of arrival leave and stay of labour migrants in the Republic of Azerbaijan.

Arrival, leave, stay of labour migrants in the Republic of Azerbaijan shall be regulated in accordance with this Law and other laws of the Republic of Azerbaijan.

Visa and permission to reside for aliens living in foreign countries and arriving in the Republic of Azerbaijan to perform labour activities shall be given under application of the relevant executive power giving permission to perform labour activities in the territory of the Republic of Azerbaijan.

Permission to reside for aliens living in foreign countries and arriving in the Republic of Azerbaijan to perform labour activities shall be given for the period of an individual permission to perform labour activities.

Labour migrants shall be entitled to terminate labour contracts according to the legislation and shall be free to leave the Republic of Azerbaijan.

Article 12

Expulsion of labour migrants from the Republic of Azerbaijan

If a labour migrant, violating the provisions stipulated by this Law, has performed illegal labour activities and if there are other grounds stipulated by the legislation, he/she shall be expelled from the territory of the Republic of Azerbaijan and all related expenses shall be reimbursed by the legal entity or physical person employed him/her.

Article 13

Obligations of labour migrants and employers

a) Labour migrant shall be obliged to:

- ◆ observe the Constitution and Laws of the Republic of Azerbaijan, as well as, the regulations of stay in the Republic of Azerbaijan, and shall respect local customs and traditions;
- ◆ obtain an individual permission to perform labour activities in the Republic of Azerbaijan in accordance with the established procedure;
- ◆ observe terms and conditions of labour contracts;
- ◆ leave the territory of the Republic of Azerbaijan if there is no further condition setting up possibilities to reside for a new period in the Republic of Azerbaijan, expiration or termination of labour contract term.

b) Employer shall be obliged to:

- ◆ obtain a licence in accordance with the established procedure;
- ◆ ensure that the labour migrants obtain an individual permission in accordance with the established procedure;
- ◆ ensure that the labour migrants, residing in the foreign countries and arriving in the Republic of Azerbaijan to perform labour activities, obtain a permission to reside;
- ◆ observe the conditions of labour contract concluded with the labour migrant;
- ◆ provide the labour migrants with the conditions of service and payment not worse than those of citizens of Azerbaijan holding the same position;
- ◆ create the condition of involvement of high qualified experts amongst the labour migrants in the Republic of Azerbaijan into training of local personnel;
- ◆ inform the relevant executive powers of the Republic of Azerbaijan about the cases of violation of conditions set out in labour contracts, as well as about the termination of labour contracts;
- ◆ provide necessary documents to labour migrants regarding their labour activities in the Republic of Azerbaijan.

Article 14

Social protection to labour migrants

The labour migrants have equal to citizens of Azerbaijan, performing labour activities, rights to social provision (except pension provision).

The pension provision to labour migrants shall be regulated in accordance with bilateral or multilateral international treaties to which the Republic of Azerbaijan is a party.

There may be other conditions concerning promotion of the social provision to labour migrants in the labour contract between an employer and a labour migrant

Article 15

Social protection to labour migrant's family members

The family members of the labour migrants have equal to Azerbaijan citizen's family members, performing labour activities, rights to social provision.

Restricting the unification of labour migrants with their own family is prohibited.

Article 16**Payments from labour migrant's profit**

The labour migrants legally residing and working in the territory of the Republic of Azerbaijan shall pay taxes in accordance with the legislation of the Republic of Azerbaijan.

Article 17**Labour migration quota**

For the purpose of regulating labour migration to the Republic of Azerbaijan a labour migration quota for each year shall be established to set up limitation of aliens allowed to arrive in the Republic of Azerbaijan to perform labour activities. Labour migration quota is an integral part of a common immigration quota and its determination and application shall be carried out in conformity with the procedure of determination and application of immigration quota.

Article 18**Agency services in involving the aliens in labour migration activities in the Republic of Azerbaijan.**

The agency services in involving the aliens in labour migration activities in the Republic of Azerbaijan by legal entity or physical person is prohibited.

III. LABOUR MIGRATION OF CITIZENS OF AZERBAIJAN AND PERSONS, PERMANENTLY RESIDING IN THE REPUBLIC OF AZERBAIJAN, TO FOREIGN COUNTRIES**Article 19****Labour migration of citizens of the Republic of Azerbaijan and other persons, permanently residing in the territory of the Republic of Azerbaijan, to foreign countries**

The persons reached 18 years old who are citizens of the Republic of Azerbaijan or who are permanently residing in the republic of Azerbaijan (hereinafter referred to as persons permanently residing in the Republic of Azerbaijan) shall be entitled to perform labour activities under contracts in foreign countries.

A person, permanently residing in the territory of the Republic of Azerbaijan, may be employed directly by foreign enterprises or through legal entities officially registered in the Republic of Azerbaijan.

Labour migrant, who is a person permanently residing the territory of the Republic of Azerbaijan, shall be registered in the diplomatic representation of the country of his/her employment and shall present a document attesting his/her employment. The diplomatic representation shall inform the relevant executive powers about that within fifteen days.

If there is no diplomatic representation in the country of employment, a person, permanently residing in the territory of the Republic of Azerbaijan, shall send an official document attesting his/her employment to the relevant executive power within one month period.

Article 20

Status of labour migrants, permanently residing in the territory of the Republic of Azerbaijan.

A status of labour migrants, permanently residing in the territory of the Republic of Azerbaijan, shall be determined in accordance with the laws of the Republic of Azerbaijan and international treaties to which the Republic of Azerbaijan is a party.

Article 21

Remittance of labour migrants, permanently residing in the territory of the Republic of Azerbaijan

Labour migrant shall be entitled to open an account in the banks located in the Republic of Azerbaijan and to transfer the means from own incomes to that account.

Utilisation of these means by family members or other persons authorised by the labour migrant in accordance with the legislation shall not be restricted.

Double or additional profit tax imposing on labour migrants, permanently residing in the territory of the Republic of Azerbaijan, shall be banned.

Article 22

Agency services in employing the persons, permanently residing in the territory of the Republic of Azerbaijan, in foreign countries

The legal entities registered in the Republic of Azerbaijan shall not be entitled to mediate in employing the persons, permanently residing in the territory of the Republic of Azerbaijan, in foreign countries.

To carry out such kind of activities, the legal entities shall obtain a special permission from the relevant executive power in accordance with the legislation of the Republic of Azerbaijan.

The ground to give a special permission to legally mediate shall be provided under a formal agreement between legal entities and foreign legal entities or physical persons. There should be conditions for provision of social protection to persons, permanently residing in the territory of the Republic of Azerbaijan, in such formal agreements or proposed labour contracts.

A special permission to mediate shall be given for a period of one year.

Article 23

Limitation of labour migration of persons, permanently residing in the territory of the Republic of Azerbaijan, to foreign countries.

The limitation of labour migration of persons in certain qualification, permanently residing the territory of the Republic of Azerbaijan, may be determined by decision of higher executive power.

IV. REGULATION OF LABOUR MIGRATION**Article 24****Regulation of labour migration by the state**

The state shall regulate labour migration by determining a quota for labour migrants to the Republic of Azerbaijan, giving a special permission to mediate in employing the persons, permanently residing in the territory of the Republic of Azerbaijan, in foreign countries, giving a licence for performance of labour activities in the Republic of Azerbaijan to legal entities and physical persons, and giving an individual permission for performance of labour activities in the Republic of Azerbaijan to aliens.

The relevant executive powers shall control over legality of labour activities of aliens in the Republic of Azerbaijan, guarantee of their rights, provision of social protection, activities of legal entities and physical persons engaged in labour migration field and execution of this Law.

The permissions provided in this Law may be abolished or temporarily suspended by the relevant executive power issuing them.

Article 25**Labour migration duties**

To obtain a licence to employ aliens in the Republic of Azerbaijan and an individual permission for aliens to perform labour activities in the Republic of Azerbaijan, the employers, and to obtain a special permission to mediate in employing the persons, permanently residing in the territory of the Republic of Azerbaijan, in foreign countries, the legal entities shall pay a state duty in amount designated by the Cabinet of Ministers of the Republic of Azerbaijan.

This duty shall not exceed one hundred times of officially fixed minimum salary.

Article 26**Transportation of means, personal property, handy instruments and movable facilities belonging to labour migrants to and from the country**

A labour migrant shall not pay a duty for transportation of means, personal property, as well as, handy instruments and movable facilities necessary for labour activities to and from the Republic of Azerbaijan.

Article 27**Documents certifying education**

Documents certifying education conferred by foreign educational institutions shall be recognised by the Azerbaijan State in accordance with the legislation of the Republic of Azerbaijan and international treaties to which the Republic of Azerbaijan is a party.

Article 28**Volatile labour migration**

The volatile labour migration shall be regulated by international treaties to which the Republic of Azerbaijan is a party. Such treaties shall be in force only in the boundary territory of the Republic of Azerbaijan.

The regulations stipulated by this Law shall not concern volatile labour migration, exclusive of provisions of this Article.

Article 29**Domestic labour migration**

Domestic labour migration shall be regulated in accordance with the Labour Code. The regulations stipulated by this Law shall not concern domestic labour migration, exclusive of provisions of this Article.

Article 30**Responsibility for violation of this Law**

The legal entities and physical persons registered in the Republic of Azerbaijan shall be responsible for violation of this Law in accordance with the legislation of the Republic of Azerbaijan.