LEGAL HIGHLIGHT

Transitional changes in the legal environment of Uzbekistan: September 2016-January 2017

15 November 2018

New Laws

Uzbekistan has undergone drastic changes related to unexpected death of its first President, Mr. Islam Karimov. His successor and now newly elected President Mr. Shavkat Mirziyoev holds a course for reforms and boosting of Uzbek economy. This summary provides an overview of the changes and novelties that were introduced in the legal environment of Uzbekistan within the period from the death of Mr. Karimov to the election of the new President of Uzbekistan s that the Government of Uzbekistan will actively support local producers.

There has been a number of laws adopted since the death of Uzbekistan first President Mr. Islam Karimov and up until the inauguration of country's new President Mr. Shavkat Mirziyoyev. Some of these laws are just a new edition of existing laws, others, like the Law "On Internal Affairs Agencies", are the long-waited laws that may have significant impact on the overall regulatory environment of Uzbekistan.

Law "On State Youth Policy"
No. ZRU – 406 dated September 14, 2016

The Law regulates relations in the sphere of the state youth policy by defining the main principles of this policy, areas of focus, state bodies and other parties implementing and participating in implementation of the state policy. The Law defines certain terms that are frequently used in other legislative acts as well as introduce new terms. Thus:

Youth is defined as people that are at the age ranging from 14 to 30;

Youth Entrepreneurship – entrepreneurial activities undertaken by the youth whether by incorporating legal entities or without such incorporation;

Young Family is defined as a family where both parents are under the age of 31 or a family with a single parent who is under the age of 31. The requirement that a young family shall be the first marriage of the spouses, which was previously established in other legislative acts is abolished now by this Law;

New/Young Specialist is defined as an employee under the age of 31, being an alumnus of higher or specialized secondary educational institution that has been employed to a position that he/she was trained and educated for within 3 years after the graduation and who is working for not more than 3 years under this specialization.

prepared by KOSTA LEGAL LAW FIRM







Law "On Internal Affairs Agencies" No. ZRU-407 dated September 2016

The Law approves the structure of the internal affairs agencies as well as determines the procedure for hiring and dismissal of police officers, their service in the internal agencies along with means of legal and social protection.

The Law strictly regulates the grounds and procedure for use of certain coercive measures, such as:

Detention:

Cordon (blocking) of sectors of the terrain, residential premises, constructions and other objects;

Use of individuals and legal entities' vehicles;

Physical force, firearms and specials means

The Law establishes that damage caused to individuals and legal entities by officers of the internal affairs agencies shall be compensated from the funds of the off-budget fund with further recovery from the guilty party.

The Law will enter into force after 6 months from its publication.

New edition of the Law "On protection and Use of Flora" No. ZRU-409 dated September 21, 2016

The Law regulates relations in the sphere of the use and protection of the plant community. The Law establishes that wild plants growing in the natural environment are the public property. On the other hand, wild plants that are grown in artificially created conditions may be owned by legal entities and individuals.

One of the measures established by the Law for the purpose of protection and rational use of flora is the maintenance of the state register of objects of the plant community by the State Committee of the Republic of Uzbekistan on Protection of Nature jointly with the Academy of Science of the Republic of Uzbekistan.

Moreover, it is established that import and export of wild plants, their parts, products of their life and botanical collections can be done based on the permits issued by the state agencies on protection of nature

New edition of the Law "On Occupational Safety" No. ZRU-410 dated September 22, 2016

The main changes in the new edition of the Law are the following:

Functions of the work safety department or the work safety inspector within an enterprise now can be outsourced to professional companies specializing in the sphere of occupational safety;

Audit of the occupational safety system within an organization is being introduced. The audit can be conducted at the initiative of an employer by the specialized occupational safety companies;

Introduction of list of work places that are subject to periodical (not less than once every 5 years) certification/appraisal of working conditions;

Mandatory investigations and reporting of industrial accidents, occupational diseases and other damages to health of people working under contracts of services.

The Law will enter into force after 3 months from its publication.

Agricultural Industry

Decree of the Cabinet of Ministers of Uzbekistan No. 286 dated August 30, 2016; and Decree of the President of Uzbekistan No.PP-2603 dated September 19, 2016

Key provisions:

Sale of cotton fiber by JSC "Uzpaxtasanoat" only for hard currency;

Sale contracts – directly or through the Republican Commodity Exchange;

Mandatory sale of 25% of hard currency proceeds by ALL exporters of fresh horticultural products, grapes and cucurbits crops (agro products);

Export of agro products based on 30% advance payment and issuance of confirmed letter of credit or bank guarantee of a reputable foreign bank for the remainder. JSC "Uzagroexport" is exempted from this requirement provided the products are sold to (i) joint ventures and trading companies of JSC "Uzagroexport", or (ii) leading reputable importers included into the List approved by the Cabinet of Ministers of Uzbekistan.

Alcoholic Beverages Joint Decree of the Ministry of Finance and the State Tax Committee No. 2845 dated December 1, 2016

Starting from January 1, 2016 wholesale and retail prices for alcoholic products (except for beer) are increased on average for 22%.

Pharmaceutics
Decree of the President of Uzbekistan
No. PP-2595 dated September 16, 2016;

Decree of the President of Uzbekistan No. PP-2647 dated October 31, 2016;

Order of the Minister of Public Health of Uzbekistan No. 2118-2 dated September 23, 2016;

Decree of the Cabinet of Ministers of Uzbekistan No. 365 dated October 27, 2016;

Order of the Minister of Public Health of Uzbekistan No. 2842 dated November 30, 2016:

Order of the Minister of Public Health of Uzbekistan No. 2846 dated December 6, 2016:

Key provisions:

Pharmacies are recommended to offer patients pharmaceuticals of local production prior to offering medicaments of foreign production (enters into force on December 26, 2016);

Prescriptions shall indicate only the international nonproprietary names of pharmaceuticals without using their branded names (enters into force on December 26, 2016);

General Technical Regulations on Safety of Pharmaceutical Products was adopted (enters on 30 April, 2017);

New trade mark-ups: up to 15% for wholesale and up to 20% for retail (enters into force on January 1, 2017);

Price fixing for the Social Significant Pharmaceuticals. The prices will be set by the special Republican Commission. Pharmaceuticals of foreign producers included in the List will be purchased on tender conducted by the Ministry of Foreign Economic Relations, Investments and Trade of Uzbekistan (enters into force on January 1, 2017);

Companies specializing in production of pharmaceuticals — not less than 60% of the overall turn-over- are exempted until January 1, 2021 from (i) corporate income tax; (ii) property tax; (iii) unified tax payment; (iv) mandatory payments to the Republican Road Fund;

Adoption of new OTC drug list that includes 192 items of monotherapies and 1033 items of comprehensive medications;

Adoption of the List of Medications and Medical Products that pharmacies are obliged to have. The List includes 70 pharmaceuticals and 6 medical products

Investments Decree of the President of Uzbekistan No. UP-4853 dated October 26, 2016

The Decree sets a unified legal, tax and customs regime for the free economic zones "Navoi", "Angren" and "Djizakh". The Decree further establishes the Unified Administrative Council for these free economic zones.

Amendment to the Law "On Joint-Stock Companies and Protection of Shareholders' Rights"

No. ZRU-411 dated September 23, 2016

Key provisions:

Joint-stock companies shall have at least 15% foreign shareholding, except for cases set by the President and the Cabinet of Ministers of Uzbekistan;

Joint-stock companies with at least 15% foreign shareholding are exempted from (i) corporate income tax; (ii) property tax; (iii) social infrastructure tax; (iv) unified tax payment; (iv) mandatory payments to the Republican Road Fund. The term of such exemption will be determined by the Cabinet of Ministers, depending on the category and specialization of joint-stock companies; Joint-stock companies with foreign shareholding are exempted from the state fees in general and economic courts for claims on breach of their rights and interests as shareholders.

Tourism Decree of the President of Uzbekistan No. UP-4861 dated December 2, 2016

Key provisions:

Creation of the State Committee on Development of Tourism;

From January 1, 2017 hotels, motels, holiday camps and similar places are exempted from obtaining the license, but are subject to mandatory certification;

Starting from January 1, 2018 public catering companies and transportation companies specializing on servicing foreign tourists are subject to mandatory certification;

From January 1, 2017 tour guides can render their services only upon obtaining the qualification certificate from the State Committee on Development of Tourism;

Starting from April 1, 2017 visa requirements are abolished for tourists - citizens of Australia, Austria, Great Britain, Germany, Denmark, Spain, Italy, Canada, Luxembourger, the Netherlands, the Republic of Korea, Singapore, Finland, Switzerland and Japan that are staying for a period of not more than 30 days;t

Starting from April 1, 2017 tourists age 55 and above – citizens of Belgium, Indonesia, the People's Republic of China (as a part of tourist group), Malaysia, USA, France, Vietnam, Israel, Poland, Hungary, Portugal and Czech Republic are also exempted from obtaining visa to Uzbekistan, provided their stay last for not more than 30 days.

Payment for hotel services by foreign tourists shall be done in hard currency;

4-star hotels and above are exempted from (i) corporate income tax, (ii) land tax; (iii) property tax; and (iv) unified tax payment for a period of 5 years.

Entrepreneurship Decree of the President of Uzbekistan No. UP-4848 dated October 5, 2016

The Decree is issued as a document signaling entrepreneurs the intention of the Government to fundamentally liberalize the market and improve the business environment in Uzbekistan. The Decree defines the Government's priorities and specific steps that it plans to take to realize these changes. This is reflected in the Program of complex measures for ensuring expedient development of entrepreneurship, protection of private property and improvement of business environment in the country.

The state policy in the sphere of entrepreneurship shall be in: (i) provision of more freedom to small business and private entrepreneurship; (ii) cardinal decrease of interference with the businesses' affairs; (iii) ensuring early prevention of infringements of law and increase of effective use of preventive measures.

Key provisions (starting from January 1, 2017):

all unscheduled and counter inspections of entrepreneurs, including those initiated under criminal investigations, are prohibited;

entrepreneurs and their employees are exempted from criminal and administrative liability for law infringements, provided (i) these were the entrepreneurs' first infringement, (ii) committed violations have been voluntarily liquidated; (iii) material damage was fully compensated (except for damages caused to life and health of people);

imprisonment as punishment shall not be applied to entrepreneurs;

newly established production companies with foreign investments shall have a right within 5 years to opt for the tax regime valid at the time of their incorporation;

the requirement for customs registration of export contracts is abolished.

Decree of the President of Uzbekistan No. PP-2646 dated October 28, 2016

The Decree sets that starting from April 1, 2017 the state registration of business entities and individual entrepreneurs shall be done 24/7 through automated online system.

Decree of the Cabinet of Ministers of Uzbekistan No. 317 dated September 21, 2016

Instead of applying to the cadaster bodies, entrepreneurs shall register their rights over immovable property through so-called "one-stop shop" centers.

Justice System Decree of the President of Uzbekistan No. UP-4850 dated October 21, 2016

The Decree adopts the Program of complex measures for further reform of justice system and reinforcement of guarantees of protection of people's rights and freedoms.

The Decree further provides for specific measures that enter into force starting from April 1, 2016:

abolishment of arrest as a mean of criminal punishment;

the term of taking suspects in custody is shortened from 72 to 48 hours;

the maximum terms for arrest, house arrest and pretrial investigation is

the maximum term for revision of the court orders in civil law disputes as the exercise of supervisory powers is shorten from 3 to 1 year:

the regional appellate economic courts will be established.

The Decree further sets new tenure for the judges. Particularly, the first term is 5 years, the following term is 10 years and then – unlimited.

Amendments into the Code of Administrative Responsibility and the Criminal Code of Uzbekistan

No. ZRU-411 dated September 23, 2016

It is has been determined that collection and dissemination of information about private life of individuals, constituting their private or family secret, without their consent is now punishable by fines amounting to 10-40 minimum monthly wages. Repeated commission of the offence may lead to larger fines or imprisonment of wrongdoers' officers.

Decree of the Cabinet of Ministers of Uzbekistan No. 366 dated October 27, 2016

The Decree sets personal responsibility of the heads of the ministries, state agencies, khokims (mayors of regions, citizen and districts) for unconditional performance of the requirements set by the Law of Uzbekistan "On Applications of Individuals and Legal Entities".

What is Next?

The following are the reforms that the Government announced to implement in the coming year:

liberalization of foreign currency market;

adoption of new laws "On Authorized Representative of Oliy Majlis of Uzbekistan on protection of rights and interests of entrepreneurs (business ombudsman)", "On Public Procurement", "On Administrative Procedures". "On Public-Private Partnership":

Simplification of the process on registration of legal entities by (i) reducing the number of documents to be provided to the state registering authority; (ii) abolishing the requirement for notary certification of the constitutive documents; (iii) abolishing the requirement to provide extract from the trade register of the foreign shareholders; (iv) reducing the state registration fee by two times;

Abolishing the requirement for the state registration of copyrights for work of science, literature and art:

Abolishing the requirement for registration of legal entities and individuals using the objects of intellectual property in the territory of Uzbekistan.