

LABOR CODE OF THE KYRGYZ REPUBLIC

(Draft)

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PART I. GENERAL PROVISIONS
CHAPTER 1. BASIC PROVISIONS

Article 1. Goals and objectives of the labor legislation

The goal of the labor legislation is to ensure the state guarantee of labor rights and freedoms of citizens, favorable labor conditions, protection of rights and interests of employees and employers is in place. Labor legislation is aimed to ensure required legal basis to reach an agreement that would best fit interests of the parties to labor relations, as well as those of the Government.

Main objective of labor legislation is legal regulation of labor relations and other relevant areas in:

Labor organization and management;

Employment by a certain employer;

Professional on- the-job training, retraining and enhancing staff qualifications;

Social partnership between employers, employees and public management bodies; collective negotiations; conclusion of collective agreements and contracts;

Involvement of employees' representatives in setting labor conditions and applying labor legislation unless otherwise stated in the law;

Employers' and employees' liability for breakage in the labor area;

Oversight and control over labor legislation observance (including labor protection legislation);

Settlement of labor disputes.

Article 2. Major principles of legal regulation of labor relations and relations directly relevant thereto.

Major principles of legal regulation of labor relations and relations directly relevant thereto shall be as follows:

- right for of that each citizen may choose or freely agree to, including the right to dispose own labor capabilities and choose profession and occupation;
- freedom of labor;
- no forced labor and discrimination in the area of labor relations;
- ensure the right to assist employment and social protection from unemployment;
- ensure the right for labor in the conditions consistent with safety and hygienic standards;
- ensure right for labor remuneration on non-discriminative basis and in the amount not under statutory minimal wage;
- ensure right to rest;
- ensure right of compensation of damage incurred to an employee in the course of carrying out his labor responsibilities;
- facilitate on-the-job professional development of employee, staff training;
- ensure right of settlement of individual and collective labor disputes pursuant to this Code and other legislation;
- establish state guarantees to ensure rights of employees и employers, government oversight and control to ensure compliance with them;
- ensure right of every person to have government protection of rights and freedoms thereof, including court protection;
- ensure right to unite, including the right to establish trade unions and other representation bodies of employees to protect their rights, freedoms and interests in the area of labor relations and ensure public control over enforcement thereof;
- participation of employees' и employers' associations in regulating labor relations.

Article 3. Labor legislation and other relevant laws and regulations. Standards of international legislation

Pursuant to the Constitution of the Kyrgyz Republic labor relations and relations directly relevant thereto shall be regulated by labor legislation (including labor protection legislation) and other labor laws and regulations: this Code, other laws, decrees of the President of the Kyrgyz Republic, resolutions of the Kyrgyz Republic government, acts of local governance bodies and internal normative labor acts.

International treaties and other norms of international law ratified by the Kyrgyz Republic shall be deemed as effective part of the Kyrgyz Republic legislation.

If the rules set forth in the international treaties ratified by the Kyrgyz Republic are more favorable for employees than those set forth in the Kyrgyz Republic laws and Regulations, contracts, collective-bargaining agreement, than the rules of international treaties shall prevail.

Article 4. Acts of the Local governance bodies setting norms of labor law

Local governance bodies may adopt acts setting norms of labor law within their jurisdiction.

Article 5. Internal normative acts setting norms of labor law passed by the employer

Employer shall pass internal normative acts to set norms of labor law within their jurisdiction pursuant to legislation, collective-bargaining agreement, contracts.

In cases provided for in this Code, other laws and regulations, collective-bargaining agreements and contracts the employer should consult with the employees' representation bodies before passing internal labor acts.

Internal labor acts aggravating status of employees compared to labor legislation, collective-bargaining agreements and contracts, or internal labor acts passed with no prior consultation with the employees' representation bodies in violation of the procedures, set forth in this Code, shall be considered invalid. In such cases labor legislation shall be applied.

Article 6. Scope of application of the Labor Code

This Code, laws and other labor laws and regulations shall cover all employees using their labor capabilities based on a labor contract with an employer located at the territory of the Kyrgyz Republic.

This Code and other labor laws and regulations are subject for mandatory compliance by all employers (natural and legal persons) regardless of organizational and legal form and ownership form thereof.

Whenever judicial findings demonstrate that labor relations between employer and employee were de facto regulated by a contract of civil - legal nature, such relations shall be regulated by labor legislation provisions.

Article 7 of this Code and other labor laws state specific features of applying this Code to foreign citizens and persons with no citizenship.

Specific features of regulating labor of certain categories of employees (organization leaders, civil servants, part-time employees, women, youth, etc) are set in this Code and other laws.

This Code and other labor laws and regulations do not cover the following persons (unless at the same time they do not act as employers or representatives thereof pursuant to the procedures set forth in this Code):

military in the course of military service;

members of board of directors (observation councils) of organizations (other than persons contracted by this organization);

persons contracted on a civil - legal basis (contract, order, etc);

other persons pursuant to legislation.

Article 7. Application of labor laws and regulations to foreign citizens and persons with no citizenship, as well as the citizens of the Kyrgyz Republic employed by organizations owned by foreign entities

This Code, laws and other regulations shall be applied to foreign citizens and persons with no citizenship employed by the organizations located at the territory of the Kyrgyz Republic unless otherwise stated in Kyrgyz Republic legislation or international treaties.

Employees of the organizations located at the territory of the Kyrgyz Republic, founded by or owned (fully or partially) by foreign legal entities or natural persons (including subsidiaries of transnational corporations) shall be subject for labor laws and regulations unless otherwise stated in the Kyrgyz Republic legislation or international treaty of the Kyrgyz Republic.

Article 8. Contractual regulation of labor relations and relations directly relevant thereto

Pursuant to labor legislation labor relations and relations directly relevant thereto may be regulated by collective-bargaining agreements, contracts and agreements that employers and employees may conclude, modify, add.

Collective-bargaining agreements, contracts and labor agreements may not contain provisions aggravating rights and freedoms of employees than those set forth in the labor legislation. If collective-bargaining agreement, contract or labor agreement contain such provisions, they may not be applied.

Article 9. Prohibition against labor discrimination

Each person shall have the equal possibilities to exercise labor rights and freedoms.

No one must be limited in their labor rights or be privileged in the exercise of such rights due to their sex, race, ethnicity, language, origin, property and official status, age, place of residence, religion and political convictions, membership in public organizations, or other circumstances irrelevant of professional capacities and the results of work done by the employees.

Distinctions, exemptions, preferences and limitations set due to specific nature of work or those set to ensure government protection of socially and legally vulnerable persons pursuant to legislation, shall not be deemed as discrimination.

A person that believes that he was subject to labor discrimination may apply to court with a corresponding claim on recovery of infringed rights and on reimbursement of the material damage and of the moral harm thus caused.

Article 10. Prohibition against forced labor

No forced labor, that is the compulsion to perform work under the threat of any punishment shall be allowed. Exception shall be made in the following cases:

- when carrying out the work regulated by the law on military service or alternative civil service;
- when working in emergency cases, i.e. state of emergency or martial law, natural calamity or threat thereof (fire, water flood, famine, earthquake, strong epidemics or epizootic), other cases threatening life or normal living conditions of the population in whole or in part;
- in the event of serving a court sentence under supervision of law enforcement state agencies.

Article 11. Effect of labor laws and regulations in time

Labor laws or other legal act shall be effective from the moment stated therein or in other act setting procedures for bringing into effect this act.

Labor laws or regulations shall be terminated in the event of:

- duration of its validity expires;
- another act of similar or higher legal force becomes effective on the same subject;
- repeal (recognition as invalid) of this act by the act of similar or higher legal force.

Labor laws and regulations shall not have retroactive effect and applied to relations occurred after bringing it into effect.

Labor laws and regulations shall not be applied to relations occurred before it came into effect unless otherwise directly stated in this act.

With regard to the relations occurred before labor laws or regulations came into effect, such laws and regulations shall be applied to rights and responsibilities occurred after they came into effect.

Article 12. Calculation of terms provided for in this Code

The term of origination or cessation of the labor rights and responsibilities shall start on the calendar date which is considered the date of beginning or cessation of the labor relationships. The terms counted by years, months, and weeks shall expire on the corresponding days of the last year, month, or week of the term. The term counted by calendar weeks or calendar days shall include non- business days.

In case that the last day of the term is not a business one, the day proceeding it shall be considered the date of cessation of the term.

CHAPTER 2. LABOR RELATIONS. PARTIES OF LABOR RELATIONS. GROUNDS FOR ORIGINATION OF LABOR RELATIONS. SUBJECT OF LABOR AND OTHER RELATIONS

Article 13. Labor relation

Labor relations are the relations between employee and employer on specific work (labor function) to be personally accomplished by an employee in compliance with internal labor schedule on a payment basis, given that employer provides labor conditions pursuant to labor legislation, collective-bargaining agreement, contracts, labor agreement.

Article 14. Grounds for origination of labor relations

Labor relations between employee and employer shall originate on the basis of labor agreement concluded by them in compliance with this Code.

Legislation, other normative acts or charter (bylaws) of the organizations shall provide for the cases and procedures for origination of labor relations based on labor contract and other acts preceding conclusion of a contract:

- selected for the position (elections);
- selected to fill the vacancy on a competitive basis;
- appointed for the post or approved to take the position.
- assigned to work by lawfully authorized bodies due to the established quote;
- court decision on conclusion of a labor contract;
- actual admission to work upon consent or order of the employer or representative thereof regardless of accuracy of the labor contract conclusion and filing.

Article 15. Labor relations originated by the act of selection (election) for the position and labor contract

Labor relations shall originate based on the act on selection (election) for the position and labor contract when such act contains an employee's commitment to fulfill certain work (labor function).

Article 16. Labor relations originated by the act on selection on a competitive basis and labor contract

Labor relations shall originate based on the act on selection on a competitive basis and labor contract when in compliance with the laws and regulations or charter (bylaws) of the organization there is a list of positions to be filled on a competitive basis and procedures for such competition.

Article 17. Labor relations originated by the act on appointment or approval to take the position and labor contract

Labor relations shall originate based on the act on appointment or approval to take the position and labor contract in cases when provided so by laws and regulations or charter (bylaws) of the organization.

Article 18. Parties of labor relations

Employee and employer shall be the parties of labor relations.

Employee – citizen of the Kyrgyz Republic, foreign citizen or person with no citizenship that has labor relationship with an employer.

Employee is a person that reached the age of sixteen. In exclusive cases persons that reached the age of fifteen could be employed upon consultation with employees' representation bodies of the organizations or with an authorized state body in labor sphere.

Students that reached the age of fourteen may conclude labor contract given written consent of one of the parents (guardian, tutor) or guardianship and tutorship body to carry out easy work in spare time, which will not damage health or disturb process of study.

Parents (guardian, tutor) shall express consent in writing (application) and sign labor contract with the minor.

Employer – natural or legal person (organization) that entered labor relations with an employee. In cases stipulated by the laws another person, empowered to conclude labor contracts may act as an employer.

Rights and responsibilities of an employer in labor relations shall be carried out by: a natural person - an employer; management bodies of a legal entity (organization) or duly authorized persons in compliance with the procedures set forth in legislation and regulations, founding documents of the legal entity (organization) and internal normative acts. Owner (founder) shall be subsidiary responsible for labor liabilities of the companies fully or partially funded by such owner (founder) in compliance with the procedures set forth in legislation.

Article 19. Major rights and responsibilities of employee

Employee shall have a right to:

- conclude, modify and terminate labor contract in compliance with the procedures and conditions set forth in this Code and other legislation;
- work as stated in the labor contract;
- work place protected from exposure of harmful and dangerous factors; to information on status of conditions and labor safety requirements for work place;
- timely and full payment of wage appropriate for his qualification, quantity and quality of the work accomplished;
- payment for time wasted, when employee is not guilty for such waste, in the amount not less than that stated by this Code;
- rest ensured by setting limits in work time duration, reduced work day for certain professions, works and certain categories of employees, provision of weekly days off, holidays, and annual paid leave;

- association, including the right to create trade unions and other representation bodies of employees to protect interests thereof;
- to conduct collective negotiations through representatives thereof;
- professional training, retraining and upgrade of qualifications in compliance with the procedures set forth in this Code and other relevant legislation.
- reimbursement of damage incurred in the process of labor responsibilities accomplishment;
- mandatory social insurance in cases as provided for in the Kyrgyz Republic legislation;
- guarantees and compensations in compliance with the laws and regulations;
- protection of labor rights and freedoms by means provided for in the Kyrgyz Republic legislation, including the right for court protection.

Employee shall be obliged to:

- fulfil responsibilities set forth in the labor contract and labor schedule of the organizations in diligent manner;
- meet the established labor requirements;
- comply with labor protection and production safety requirements;
- cautiously approach employer's and employees' property;
- not to disclose information entrusted to him pursuant to the labor contract, which are of state, corporate, commercial and any other secrecy protected by law;
- inform an employer of the situation occurred, which poses a threat for life and health of people, safety of employer's and employees' property, as well as on time wasted.

Article 20. Major rights and responsibilities of employers

1. Articles 16 and 19 of the Constitution of the Kyrgyz Republic guarantee an employer's right of ownership as well as free business activity thereof.

An employer may:

- conclude, modify and cancel labor contracts with employees pursuant to procedures and grounds set by this Code and other legislation;
- adopt bylaws to regulate labor procedures;
- have a right for an outcome of employees' activities unless otherwise stated in this Code and other legislation;
- carry on collective negotiations and enter collective-bargaining contracts;
- establish and join employers' associations to ensure representation and protection of own rights and concerns;
- give incentives to employees;
- require employees to comply with the labor contract provisions and work schedule;
- claim disciplinary liability and liability for breakage from employees pursuant to the procedures set by this Code and other legislation;
- apply to court for protection of rights and concerns thereof.

An employer shall:

- comply with the laws and regulations, internal bylaws, terms of collective contract, agreements and labor contracts;
- provide an employer with work as stipulated in the labor contract;
- ensure same payment for same labor;
- adopt internal bylaws to regulate labor procedures (regulations, instructions, orders) and other documents required for normal run of the organization;
- supply employees' representatives with the information needed for carrying on collective negotiations, entering collective contracts, ensure control over implementation thereof;

- carry on collective negotiations and enter collective-bargaining contracts pursuant to this Code;
- ensure labor safety and conditions compliant with labor protection and hygienic standards;
- provide employees with equipment, tools, technical documents and other means as needed for carrying out work responsibilities;
- carry out prescriptions of government oversight and control agencies, pay fines imposed for violation of labor and safety labor laws and regulations in timely manner;
- ensure social insurance for employees as required by the legislation;
- reimburse damage incurred to an employee in the course of fulfilling work responsibilities by the latter, as well as compensate moral harm in accordance with the procedures and conditions stipulated in this Code, other legislation;
- fulfil any other duties as provided in this Code and other legislation, collective-bargaining agreement, agreements and labor contracts.

Article 21. Subjects of labor relations

These are the subjects of individual labor relations:

- employee;
- employer;

These are the subjects of collective labor relations:

- employees' representation body (trade union, representation body, employees' board, etc)
- association of employers;
- other subjects in cases provided for in legal acts.

PART II. SOCIAL PARTNERSHIP IN THE AREA OF LABOR

CHAPTER 3. GENERAL PROVISIONS

Article 22. Social partnership

Social partnership is a system of relations between employees (representatives thereof), employers (representatives thereof), government agencies, local governance bodies, aimed to coordinate interests of employees and employers.

Government agencies and local governance bodies shall become the parties to social partnership when they act as employers or representatives thereof pursuant to legislation or authorization of employers.

Article 23. Major principles of social partnership

Major principles of social partnership:

- equality of the parties;
- respect and due regard to the interests of the parties;
- concern of the parties to participate in contractual relations;
- government support in strengthening and development of social partnership on democracy basis;
- compliance of the parties and representatives thereof with laws and other normative legal acts;
- due authorization of the parties' representatives;
- freedom of choice in discussion of labor issues;
- taking commitments by the parties on the principles of good will;
- realistic nature of the commitments of the parties;
- mandatory compliance with collective-bargaining agreements, contracts;
- control over compliance with the collective-bargaining agreements, contracts;

responsibilities of the parties, representatives thereof for failure to comply with collective-bargaining agreements, contracts through their own fault.

Article 24. Parties of the social partnership

Employees и employers in the person of duly authorized representatives thereof shall be the parties of social partnership.

Article 25. Social partnership system

Social partnership system shall be comprised of the following levels:
Republican level which sets the labor regulatory framework in the Kyrgyz Republic;
Industrial level which sets the labor regulatory framework within the industry (industries);
Territorial level which sets the labor regulatory framework in the municipal unit;
Organization level which sets specific mutual labor liabilities between employees and employer.

Article 26. Forms of social partnership

Social partnership shall be implemented in the following forms:
collective negotiations on design of draft collective-bargaining agreements, agreements and conclusion thereof;
mutual consultation (negotiations) to regulate labor relations and other relevant relations and to ensure guaranteed labor rights of employees and improvement of labor legislation;
involvement of employees, and representatives thereof in organization management;
participation of employees' and employers' representation bodies in pre-court labor dispute settlement.

Article 27. Specific features in application of this part

Specificity in application of this part to civil servants, military and para – military organizations, law enforcement and security organization, tax policy bodies, criminal – executive system organizations, customs agencies and diplomatic representations in the Kyrgyz Republic shall be set forth in the laws.

CHAPTER 4. EMPLOYEES' AND EMPLOYERS' REPRESENTATION BODIES

Article 28. Representatives of employers' interests

Head of the organization of duly authorized persons shall represent employers in collective negotiations, conclusion or modification of collective-bargaining agreement pursuant to this Code, other legislation, founding documents and internal normative acts of the organization. In the process of collective negotiations, conclusion or modification of agreements, settlement of collective labor disputes regarding conclusion or modification thereof, as well as in the process of forming social and labor dispute settlement commission the employers' interests shall be expressed by respective employers' representation bodies.
Association of employers – is a non – commercial organization comprised of voluntarily joined employers to represent the interests and protect rights of members therein in liaison with trade unions, government bodies and local self – governance units.
Legislation shall set detailed legal status of employers' associations.

Article 29. Employees

Employees shall be represented in social partnership by trade unions and associations thereof, other professional organizations set forth in the charters of trade unions, or other representatives elected by employees in the events stipulated in this Code.

Immediate trade union or other representatives elected by employees shall represent interests of the employees of an organization in the process of collective negotiations, conclusion and modification of collective-bargaining agreements, ensuring control over implementation thereof, and exercising right for involvement in organization management.

In the process of collective negotiations, conclusion or modification of agreements, settlement of collective labor disputes regarding conclusion or modification thereof, and ensuring control over their implementation, as well as in the process of forming social and labor dispute settlement commission the employees' interests shall be expressed by respective trade unions, territorial units thereof, trade union associations and associations of territorial units of trade unions.

Article 30. Representation bodies of employees'– non members of trade union

Employees, who are non- members of trade unions may authorize immediate trade union to represent their interests in relations with employers.

Article 31. Other representatives of employees

When no immediate trade union exists in the organization, or when trade union is comprised of less than half of all employees, the latter may authorize such trade union or other representative to express their interests in a general meeting (conference).

The fact of existence of another person may not be deemed as a constraint for the trade union to carry out its powers.

Article 32. Employer's responsibilities to ensure conditions for operation of employees representation bodies

Employer shall create conditions that ensure operation of employees' representation bodies pursuant to this Code, laws, collective-bargaining agreement, contracts.

Article 33. Powers of employees' representation bodies

Employees' representatives shall have the right to:

- conduct collective negotiations, conclude collective-bargaining agreements with employer, control implementation thereof;
- participate in consideration of social and economic development of the organization when provided so in the contracts and collective-bargaining agreement;
- participate in drafting internal normative acts of the organization in cases provided for in labor law;
- ensure public control over compliance with labor law;
- have an access to work places, request from an employer necessary data to ensure public control;
- act on behalf of employees in collective labor dispute;
- represent employees' interests in the agencies for individual labor disputes settlement;
- appeal in the court decisions taken by the organization management and persons authorized by them when such decisions violate labor law;
- announce and terminate strike in accordance with statutory procedures.

Employees' representatives shall have other rights pursuant to respective legislation, charters and regulations.

Article 34. Prohibition to obstruct operations of employees' representatives

No forms of obstruction to legal operations of employees' representatives shall be prohibited.

Article 35. Employer's responsibilities to ensure conditions for operation of employees'

representation bodies

Employer shall create conditions that ensure operation of employees' representation bodies; assist employees' representatives in exercising their rights:

- before taking decisions affecting employees' interests, have consultation with employees' representatives in cases set forth in legislation, collective-bargaining agreement, contracts;
- consider proposals from employees' representatives and notify them of the decisions taken with rationale;
- supply employees' representatives with the required information relevant to labor, organization activities, other social and economic issues free of charge;
- carry out other responsibilities with regard to employees' representatives in accordance with this Code, collective-bargaining agreements, and contracts.

Article 36. Additional labor guarantees for employees' representatives

Employees' representatives that combine these activities with work, shall be granted free time for public responsibilities while reserving average wage in accordance with conditions set forth in collective-bargaining agreement, contracts.

Employees' representatives free from production work due to the election in representation body shall be given same work (position) after expiry of elected terms of service, or similar work (position) in the same organization. In the event of impossibility to give the same work (position) at the previous work place, employer shall give an employee his average wage for the period of employment but not more than for three months, in case of study or professional retraining – for duration of study, but not more than for one year.

Employer shall be allowed to initiate dismissal of employees' representation body members (except when the organization is liquidated (paragraph 1 Article 84 of this Code)) given compliance with regular dismissal procedures and consent of superior employees' representation body.

CHAPTER 5. SOCIAL PARTNERSHIP BODIES. COLLECTIVE NEGOTIATIONS

Article 37. Bodies regulating social and labor relations

Commissions comprised of duly authorized representatives of the parties shall be formed to ensure regulation of social – labor relations, conducting collective negotiations and drafting collective-bargaining agreement, contracts, conclusion thereof, as well as to organize control over implementation of collective-bargaining agreement and agreements at all levels on equal basis upon consent of both parties.

Permanent republican three-lateral commission comprised of members of the Kyrgyz Republic Government, republican association of employers and trade unions shall be formed at the republican level to regulation social and economic relations.

Three-lateral commissions could be organized at the territorial level to regulate social – labor relations to operate in accordance with legislation, regulations on such commissions passed by representative bodies of local self - governance.

Commissions could be established at industrial level to conduct collective negotiations, draft industrial agreements and conclude them. Industrial commissions could be established at both republican and territorial levels.

Agreements providing full or partial funding from budgets of all levels shall be concluded with involvement of representatives from respective executive agencies and local self – government bodies, which are parties to the agreement.

Commission to conduct collective negotiations, to draft collective-bargaining agreement and conclude it shall be established at the level of organization.

Article 38. Principles of conducting collective negotiations

These are the principles of conducting collective negotiations:

- equality and respect of the parties' interests;
- freedom of choice in discussion of provisions of collective-bargaining agreement, contracts;
- voluntary nature of the commitments taken by the parties;
- compliance with labor legislation.

Article 39. Right for collective negotiations

Employees' and employers' representatives may participate in collective negotiations to draft, conclude and modify collective-bargaining agreement, contracts and may initiate such negotiations.

The party upon receipt of notification on start of negotiations shall start negotiating within seven days. Neither party may refuse to participate in collective negotiations.

Collective negotiations to draft, conclude and modify collective-bargaining agreement, contract shall not be conducted on behalf of employees by the organizations established or funded by an employer, state agencies or political parties.

Article 40. Procedures for conducting collective negotiations

Participants of collective negotiations shall have a freedom of choice in regulating social and economic relations.

When there are two or more immediate trade unions, the latter shall establish a representation body to conduct collective negotiations, draft a single collective-bargaining agreement and conclude it. Such representation body shall be comprised of the members of each trade union pro rata number of members in each trade union.

When within five days after collective negotiations started there was a failure to establish a single representation body, than the interests of all employees of the organization shall be represented by the immediate trade union which comprises more than half of employees.

When none of the immediate trade unions comprises more than half of employees that the general meeting (conference) of employees shall elect the immediate trade union by secret voting to assign formation of representation body.

In cases listed in paragraphs three and four of this Article the remaining immediate trade unions will reserve the right to send their representatives to the board of the representation body before the collective-bargaining agreement is signed.

Appropriate trade unions (associations of trade unions) shall have the right to conduct collective negotiations, signature of agreements on behalf of employees at the republican level, industry, territory. When there are several trade unions (associations of trade unions) at the certain level, each of them shall have a right to send representatives in the board of a single representation body with regard to the number of their members. When no agreement is reached on establishment of a single representation body to conduct collective negotiations, this right shall be given to the trade union (association of trade unions) with the largest number of members (trade unions).

Within two weeks from receipt of request the parties shall provide the information requested for conducting collective negotiations.

Participants of collective negotiations, other persons involved in collective negotiations, shall not disclose the information obtained, when such information is of secrecy pursuant to the law (state, business, commercial, and other secrecy). Disclosure of such information will result with imposing disciplinary, administrative, civil - legal, criminal liabilities in compliance with the statutory procedures.

Terms, place and procedures for conducting collective negotiations shall be identified by representatives of the parties - participants to these negotiations.

Article 41. Settlement of disputes

This Code shall set the procedures for settlement of disputes arising in the course of collective negotiations regarding conclusion or modification of collective-bargaining agreement, contract.

Article 42. Guarantees and compensations to the persons participating in the collective negotiations

Persons participating in collective negotiations, drafting collective-bargaining agreement, contracts, shall be free from major work with the average wage kept for the period agreed by the parties but not longer than for three months. All costs relevant to participation in collective negotiations shall be compensated in compliance with the procedures set forth in legislation, collective-bargaining agreement and contracts.

The inviting party shall pay the fee to invited experts and specialists unless otherwise stated in the collective-bargaining agreement, contract.

Representatives of employees, participating in collective negotiations, for the whole duration of negotiations may not be imposed to disciplinary claim, transferred to other work or dismissed upon the initiative of an employer without prior consent of the body that authorized their representation unless the labor agreement is terminated for committing a violation that serves a ground for dismissal in compliance with this Code, other laws.

CHAPTER 6. COLLECTIVE-BARGAINING AGREEMENTS AND CONTRACTS

Article 43. Collective-bargaining agreement

Collective-bargaining agreement - is an internal normative act regulating social and labor relations within an organization, concluded between employees and employer in the person of their representatives.

Collective-bargaining agreements shall be concluded in the all organizations regardless of ownership form for the period not less than a year.

Collective-bargaining agreement also could be concluded in the subsidiaries, representations and other isolated structural subdivisions of the organizations. In such cases employer is represented by the head of an appropriate subdivision duly authorized by an employer.

When after two months of collective negotiations no agreement is reached between the parties regarding some provisions of the collective-bargaining agreement, the parties shall sign the collective-bargaining agreement on coordinated terms with the list of disputable issues attached.

Unregulated disputable issues may need further collective negotiations or be settled pursuant to this Code.

Article 44. Contents of the collective-bargaining agreement.

The parties shall identify contents and structure of the collective-bargaining agreement. The collective-bargaining agreement may include mutual liabilities of employees and employer on the following issues:

- on improvement of labor organization and enhancing production effectiveness;
- on norm-setting, forms, labor remuneration systems, size of tariff rates and salaries, additional payment and raise thereof;
- on adjustment of salary size, on payment of benefits and compensations;
- on duration of business time and duration of leave and labor leave;
- on ensuring healthy and safe labor conditions, improvement of health protection measures, guaranteed medical insurance of employees and their families, environment protection;
- on regulation of internal labor schedule and labor discipline;

- on ensuring employment, training, enhancement of professional skills, retraining and employment of laid off staff;
- on guarantees and privileges for employees combining work with study;
- on improvement of housing and life conditions of employees, observance of employees' interests in the process of privatization of the organization and its housing;
- health improvement, resort medical treatment and relaxation of employees;
- on prevention of mass dismissal, labor conflicts and strikes;
- on responsibility of employees and employer for damage incurred to organization;
- liabilities of the parties to comply with collective-bargaining agreement;
- other issues raised by the parties.

Collective-bargaining agreement shall include provisions of normative regulations when the laws and other acts directly refer to inclusion of such regulations.

Article 45. Validity of collective-bargaining agreement

Collective-bargaining agreement shall be concluded for the period not exceeding three years and shall be effective once signed by the parties or from the date specified in the collective-bargaining agreement.

Parties may extend terms of validity of the collective-bargaining agreement for the period not longer than three years.

Collective-bargaining agreement shall affect all employees of the organization, its subsidiary, representation and other isolated structural subdivision.

Collective-bargaining agreement shall remain valid regardless of changes in the organization name, termination of labor agreement with the chief of the organization.

In case of company reorganization (merger, joining, split, hiving off, conversion) the collective-bargaining agreement shall remain valid for the whole duration of such reorganization.

In case of changing form of ownership the Collective-bargaining agreement shall remain valid within three months once the ownership rights is transferred.

In the process of reorganization or change of ownership form either party may send a proposal to another party to conclude new collective-bargaining agreement or extend duration of the previous one for the period up to three years.

In case of company liquidation the collective-bargaining agreement shall remain valid for the whole duration of such liquidation.

Article 46. Changes and additions to collective-bargaining agreement

Collective-bargaining agreement shall be amended and added pursuant to the procedures agreed upon by the parties.

Article 47. Responsibilities of the parties for failure to comply with the collective-bargaining agreement.

Failure to comply with the commitments stated in the collective-bargaining agreement shall be prosecuted pursuant to the Kyrgyz Republic legislation and collective bargaining agreement.

Article 48. Contract

Contract is a legal document setting general principles for regulation of social and labor relations and relevant business relations, to be concluded by authorized representatives of employees and employers at the republican, industrial (inter-industrial) and territorial levels within their jurisdiction.

Agreement may include mutual liabilities of the parties on the following: wages, labor conditions and protection, labor and rest regimes; development of social partnership, other issues determined by the parties.

The following types of contracts could be concluded depending on the area of social – labor relations in question: general, industrial (inter-industrial), territorial, etc.

General contract shall set general principles of regulating social and labor relations at the republican level.

Industrial (inter-industrial) contract shall determine general conditions for wages, labor guarantees and privileges to respective employees.

Territorial contracts shall set general labor conditions, labor guarantees and privileges to employees located at the respective territory.

Industrial (inter-industrial) contract could be concluded at the republican and territorial levels of social partnership.

Contracts could be bilateral and three-lateral upon agreement of the parties to collective negotiations.

Other contracts – these are the contracts that could be concluded by the parties at any level of social partnership on certain directions of regulating social and labor relations and other directly relevant relations.

Article 49. Procedures for design and concluding contracts

The collective negotiation commission shall set the procedures on design and conclusion of the contracts.

When there are several trade unions at the respective level, the composition of joint board on employees' side shall be agreed between such representatives.

Draft contract shall be designed by the commission and signed by the representatives of the parties.

Article 50. Contents of the contract

Contents and structure of the contract shall be determined by the representatives of the parties, which are free in selection of the range of issues to be raised and included in the contract.

Article 51. Validity of the contract

Contract shall become valid once signed by the parties or from the date stated in the contract.

Terms of the contract validity, compliance monitoring procedures and date for conclusion of the new contract shall be stated in the contract.

Article 52. Registration of a contract

General, industrial and territorial contracts shall be registered by the Government of the Kyrgyz Republic, authorized labor agency and appropriate territorial municipal units respectively.

Article 53. Changes and additions to the contract

Any changes and additions to the contract shall be made upon agreement between the parties pursuant to the contract provisions set forth by this Code.

Article 54. Monitoring compliance with the contract

The parties to social partnership, representatives thereto and appropriate labor agency shall ensure compliance with the contract provisions by the parties.

PART III. LABOR CONTRACT

CHAPTER 7. GENERAL PROVISIONS ON LABOR CONTRACT. PROCEDURES OF LABOR CONTRACT CONCLUSION

Article 55. Definition of labor contract

Labor contract – is a contract between employee and employer, which states commitment of an employer to provide an employee with the work as specified in the labor contract; to ensure labor conditions meet the standards stated in this Code, other normative acts, collective-bargaining agreement, contracts, internal normative acts; to pay labor remuneration in accurate and timely manner; whereas employee commits to carry out work assignment personally due to certain profession (speciality), qualification or position and comply with labor schedule.

Article 56. Contents of labor contract

Contents of the labor contract shall be agreed upon by the parties given compliance with the requirements set forth in this Code.

The following provisions are mandatory for Labor contract:

- 1) date and place of labor contract conclusion;
- 2) requisites of the parties:
 - full name of an employer – legal entity, its location, number and date of state filing of founding documents;
 - full name (if stated in the identification card) and position of an employer (representative thereof), in case the employer is a natural person – also the place of permanent residence, name, number, date of issuance of identification card;
 - full name (if stated in the identification card) of an employee, identification number of social insurance card)
- 3) work place;
- 4) position, speciality, profession with qualification specified pursuant to personnel list of an organization, or specific labor function;
- 5) date of starting work;
- 6) validity of labor contract;
- 7) work regime;
- 8) rights and responsibilities of employee and employer;
- 9) conditions for labor remuneration (including size of the appropriate rate or salary for employee, additional payment, raise and bonuses, compensation for difficult, hazardous and harmful labor conditions);
- 10) authentic information on labor conditions, compensation and privileges to employees for work in difficult, hazardous and harmful conditions;
- 11) signatures of the parties.

Labor contract may contain provisions on probationary period, on non-disclosure of state, business, commercial and other statutory confidential information; on commitment of an employee to work after training for a period stated in the contract or reimbursement of training costs when such training was provided by an employer and labor contract is terminated upon initiative of an employee prior to the contract expiry date; and other provisions given they do not aggravate status of an employee compared to the laws, other normative acts, contract and collective-bargaining agreement.

Terms of the labor contract can be changed upon consent of both parties only in

writing.

In case of fixed - term labor contract it shall state contract duration and circumstances (reasons) that serve as a ground for concluding such fixed - term contract.

When concluding labor contract with the head of the organizations, deputies and chief account thereof upon consent of the parties may set additional grounds for termination of the contract in addition to those set forth in this Code.

Article 57. Duration of labor contract

Labor contract shall be concluded for:

- 1) indefinite terms;
- 2) for fixed term not exceeding five years (fixed - term labor contract) unless other duration is set forth in this Code, other legislation.

Fixed - term labor contract shall be concluded in cases consistent with the Kyrgyz Republic legislation, and when indefinite terms of labor contract can not be applied due to the nature and conditions of the work, including those:

- supervisor, deputy supervisor and chief accountants of the organizations regardless of their organizational and legal form and ownership form;
- for replacement of temporarily absent employee, when the latter will have his place reserved pursuant to legislation;
- for temporary (up to two months) and seasonal works when the work can be done within certain period (season) only due to natural conditions;
- for emergency cases to prevent accidents, wrecks, catastrophes and removing consequences thereof; other emergency cases;
- for works that are beyond normal run of the organization (reconstruction, assembling and starting and adjusting works, audit), as well as for works relevant to deliberately temporary (up to one year) increase in production or volume of services provided;
- persons employed by small and medium size businesses with staff up to 25 employees (in retail trade and household service organizations - up to 15 employees), as well as employed by employers - natural persons; with persons sent abroad for work;
- persons hired to organizations established deliberately for certain period of time or for execution of deliberately known work;
- persons hired for deliberately certain work in cases when completion (accomplishment) thereof cannot be determined by a certain date;
- for work directly relevant to internship and professional training for employee;
- students;
- part time employees;
- scientific, pedagogy and other employees, that concluded labor contracts for fixed - term work on a competitive basis upon the results of the tender conducted pursuant to legislation or regulations of the state agency or local governance bodies;
- when elected for a definite period of time in the board of the elected body or for elected position when remuneration is provided; or hired to do work directly relation to ensure operations of the members of elected bodies or officials in public management bodies and local governance bodies, in political parties and other public associations;
- creative employees from mass media, cinema, theatre and concert organizations, circuses and other persons involved in creation and (or) performance of works of art, professional athletes in accordance with the List of Professions approved by the Government of the Kyrgyz Republic;

- with retired by age, other persons that are allow to work for fixed term only due to medical statement, and;
- for public works.

Contract shall be deemed as concluded for indefinite period of time unless the labor contract states duration in writing. Contract shall be deemed as concluded for indefinite period of time when neither party requested termination of the fixed term contract and employee continues working after expiry of the contract.

Labor contract concluded for indefinite period of time cannot be renewed for fixed term without prior consent of an employee.

Article 58. Prohibition to request to do work other than stated in the labor contract

Employer may not request to do work other than stated in the labor contract.

Article 59. Effect of the labor contract

Labor contract shall come into effect once signed by employee and employer, unless otherwise stated in the labor contract.

Employee shall start working from the date as set forth in the contract. When the labor contract does not state the starting date, employee shall start working the day after the contract came into effect.

Labor contract shall be annulled when employee failed to start working on the established date with no valid reason within a week.

Labor contract shall be concluded from the starting date when the employee started working with no written labor contract in place, upon consent or order of an employer or representative thereof. Actual admission to work does not release employer from the obligation to conclude written labor contract. Labor contract conclusion shall be followed by issuance of an act (order, resolution) on admission of an employee to work to be given upon signature.

Article 60. Labor contract conclusion and filing admission to work

Labor contract shall be concluded in writing, drafted in duplicate and signed by the parties with one copy given to employee, the second one retained by the employer.

Conclusion of the labor contract within three days shall be followed by an act (order, resolution) on admission of employee to work, issued by an employer. The employer shall announce the act (order, resolution) to an employee against a receipt within three days once signed.

Labor contract shall be concluded given certain conditions set forth in Article 14 of this Code. Employee may enter labor contracts with several employers on a part time basis unless otherwise stated in the legislation of the Kyrgyz Republic.

When hiring an employee the employer shall notify the former of the internal labor schedule, other bylaws relevant to labor function of an employee, collective-bargaining agreement, contracts; instruct the employee of the labor safety standards, maintain (put a record) a labor book for the employee.

Article 61. Banning unjustified denial to conclude labor contract with certain categories of citizens

It shall be prohibited to deny in labor contract conclusion with the following categories of citizens:

- 1) those sent by the state employment service pursuant to the job quotes;
- 2) those invited from another organization in writing upon agreement between employers;
- 3) those applied for the job as a follow up to employer's request or appropriate contract after graduation of studies.

In cases set forth in paragraph one of this Article upon request of the employee the employer shall notify of the grounds for denial in writing within three days after such request is made. Unjustified denial could be appealed in the court.

Article 62. Invalidity of the labor contract

Labor contract shall be deemed invalid when concluded:

- 1) under the influence of deception, threat, and on extremely non-beneficial conditions for an employee due to difficult circumstances;
- 2) under arrangement, with no intention to originate legal subsequences behind it (false labor contract);
- 3) by a person unable to realize significance of actions taken;
- 4) by a citizens recognized as incapable due to mental illness or imbecility.

Recognition of the labor contract as invalid shall not deprive employee from the right for annual leave, money compensation for unused leaves before dismissal, inclusion of the worked - off time in retirement record or any other privileges.

Article 63. Invalidity of certain provisions of the labor contract

Certain provisions of the labor contract shall be considered invalid when they:

- 1) aggravate situation of an employee compared to those set forth in this Code and other relevant legislation, collective-bargaining agreement, contracts or internal normative acts on labor issues;
- 2) are of discrimination nature.

Invalidity of certain provisions of the labor contract shall not entail invalidity of the rest of the labor contract in general.

Article 64. Probationary period

When concluding labor contract the parties may agree to a test to check that the employee meets work requirements. The condition on such probationary period shall be set forth in the labor contract.

Absence of such condition in the labor contract means that the employee is hired without a probationary period.

Employee subject for probationary period shall be treated in compliance with this Code and other normative acts, contract, collective-bargaining agreement and internal normative acts of the organization.

Probationary period shall not exceed three months, and for managers of companies and their deputies, chief accountants and their deputies, managers of branches, representative offices and other special structural departments of organizations it shall not exceed six months, if other is not set up by the law. Probationary period shall not include temporary disability period and other periods when employee was not at work place.

Such test shall not be applied for minors, disabled persons, winners of the competition, persons that graduated primary, secondary and high professional educational establishments and first starting work at this profession, elected persons, persons hired for seasonal work, for

less than two months of work, persons transferred to work in another region or to another organization, other cases stipulated in other normative legal acts.

Unsuccessful probationary period enables employer to terminate labor contract with the employee before probationary period expires with three days written notice. Employer shall state in writing grounds for recognition of probation test failure by an employee. Employee may appeal employer's decision in the court.

When the employer did not make a decision to terminate labor contract before the probationary period expires, the employee shall be regarded as passed probationary period, and afterwards labor contract could be terminated in compliance with general procedures.

If an employee decides during probationary period that this work does not fit him, he may terminate labor contract upon own wish by giving a three days written notice to an employer.

Article 65. Medical checkout when concluding labor contract

Minors and other persons pursuant to this Code and other relevant legislation shall be subject for mandatory medical checkout before labor contract conclusion.

Article 66. Documents required for labor contract conclusion

For labor contract conclusion the applicant shall provide the employer with the following documents: passport or any other document certifying identity; labor book, social protection certificate; military record book (for military and persons that could be called up to military service); certificate of education (profession, qualification) when the work requires specific knowledge (training).

Employer shall provide labor book and social protection certificate to the persons that start working for the first time.

This Code and other relevant legislation may require submission of other documents due to specific nature of work.

No other documents except as provided by this Code and other relevant legislation shall be required from an employee for labor contract conclusion.

No information shall be collected of employee's membership in political parties, movements or religious organizations or private information.

Article 67. Labor book

Labor book of the established form is the main document on employee's labor activities. The government of the Kyrgyz Republic shall establish the form, labor book maintenance and storage procedures and procedures for providing labor books to employers.

Employer (unless the employer is a natural person) shall be obliged to maintain labor books for all employees that worked more than five days for the organization, except for part time employees.

The labor book shall contain information on admission to work, transfer to another permanent work and dismissal of an employee, as well as set the grounds for labor contract termination.

Grounds for termination of labor contract shall be made in strict compliance with the

appropriate wording of this Code and other relevant legislation with reference to appropriate paragraph and Article.

When labor contract is terminated, the labor book shall be handed to an employee on the dismissal date (last day of work). When labor book was not given on the last workday for reasons beyond control of an employer (absence of an employee, refusal to accept labor book), the employer shall send a notice to an employee to either come for the labor book or agree to receive it via mail. Once the notice is sent the employer shall be released from the responsibility for delay in giving a labor book.

Article 68. Issuance of documents on work and remuneration

Upon five days notice from an employee (current or former) the employer shall give duly certified copies of the labor documents (orders on admission to work, transfer to another work, dismissal from work, extracts from labor book, certificate on payment rate and duration of work for this organization, etc.).

Article 69. Procedures for taking civil service post

Civil service positions shall be taken by appointment, election or approval. Procedures for taking civil service positions shall be consistent with legislation.

Article 70. Limitation to joint work of relatives in government organizations

No immediate relatives (parents, spouses, siblings, offspring, as well as parents, siblings, offspring of spouses shall jointly work for the same organizations when such work requires immediate reporting of one to another, for the exception of cases set forth by the government of the Kyrgyz Republic.

CHAPTER 8. MODIFICATION OF LABOR CONTRACT

Article 71. Transfer to another work

No transfer to another work in the same organization upon employer's initiative, assuming significant change in labor function or significant modification of labor contract; or transfer to another organization for permanent work or transfer to another region together with the same organization shall be allowed prior written agreement of an employee.

It shall be prohibited to transfer employee to another work that is contra-indicative for health reasons.

Article 72. Moving

Moving means order of an employer to an employee to carry out same work at another work place, another structural subdivision of the organization in the same locality, order to work at another machine or aggregate with no changes in labor functions or changes in significant conditions of labor contract.

No employee's agreement is required for moving. Moving shall be backed up by production, organizational or economic reasons.

Article 73. Changes in significant labor conditions

Changes in technology, organization of production process and labor, reduction in level of work (products, services) may serve as the grounds for changing significant labor conditions given that the employee continues working with no labor function (profession, speciality, qualification, positions) changed.

Employee shall be given a one month notice on changing significant labor conditions (system and size of remuneration, regime of work, combining jobs, preferences and privileges, etc.). Changes in significant labor conditions shall be followed by appropriate changes and additions to the labor contract.

When the employee refuses to work in new labor conditions the employer shall offer in writing another work within the organization that fits employee's qualification and health state.

When no such work is available, or employee refuses from the offered work, and refusal to work in new labor conditions the labor contract shall be terminated pursuant to paragraph 8 of Article 80 of this Code.

When the circumstances set forth in paragraph one of this Article may lead to mass dismissal of employees, the employer upon consultation with employees' representation body, or in the absence of the letter, from written agreement of employees, for the purpose of reserving work places may introduce the regime of incomplete work time for the period up to six months, without compliance with the notice requirement set forth in paragraph one of this Article. If this is the case, work time duration shall not be less than half of monthly work time norm, whereas labor remuneration - less ? payment rate (salary).

Refusal of an employee to continue working in appropriate work regimes leads to termination of labor contract pursuant to paragraph 2, Article 84 of this Code with the right for all guarantees and compensations reserved.

Article 74. Temporary transfer to another work caused by production requirements

In case of production need the employer shall have the right to transfer employees for the period up to one month for work other than stipulated in the labor contract in the same organization or in another organization within the same locality with the salary set for the work made, however not less than average salary on the previous work place.

Such transfer shall be allowed for prevention of catastrophes, production accidents or removal of subsequences of catastrophe, accidents or natural disaster, for prevention of accidents, destroyal or damage of property and for other extraordinary cases. In this case employee may not be transferred to do work that does not fit his physical state.

Temporary transfer shall be formalized by an act (order, resolution), employee is notified of it by an employer against a signature.

Article 75. Temporary transfer due to idle production process

Idle period is a temporary (for not more than 3 months) suspension of work due to organizational, economic or natural reasons, or work halt caused by employee's behaviour, or replacement of absent employee.

Temporary transfer due to the idle period shall be applied with regard to profession, speciality, position and qualification of an employee.

Temporary transfer to another employer shall be carried out with no prior agreement of an employee when the period is less than one month, when transfer is for the whole idle period; prior agreement of the employee is required.

Employee cannot be transferred due to idle period to another locality, or to do work that he cannot do due to health state.

Temporary transfer due to idle period to the lower paid job, the employees that meet productivity norms shall have the right for average remuneration from previous work place

reserved, whereas the employees that do not meet productivity norms or transferred to time-based work, shall have their payment rate (wage) reserved.

Article 76. Transfer to another work due to health state

Employee that needs another work due to medical statement may request an employer to provide another work available which fits his health state for a fixed term, or for unlimited period of time, given agreement of such employee to accept the work.

Employees transferred to a lower paid work due to health state shall have previous average wage reserved for the period not less than one month after such transfer.

When an employee refuses to be transferred or no proper work is available in the organization the labor contract shall be terminated in compliance with paragraph 7, Article 87 of this Code.

An employer shall pay the difference between previous wage and current wage to an employee transferred to a lower paid work due to injury, professional disease or other health damage relevant to work, when the employer is responsible for such health damage. This difference shall be paid up until labor capability is recovered or complete loss of labor capability and disability are confirmed.

While awaiting for solution of an issue to transfer an employee to a another work due to injury, professional disease or other health damage relevant to work, the employee shall be discharged from work with the average remuneration reserved for all business days missed so.

Article 77. Discharge from work

Employer shall discharge an employee (not to allow to work) on a certain date (shift) in the following cases:

- 1) upon requirement of authorized state agencies and officials in statutory cases;
- 2) employee showed up to work in the state of alcoholic, drug or toxic intoxication;
- 3) employee failed to pass a test on labor protection and safety technique;
- 4) employee fails to use required means of individual protection provided by an employer;
- 5) failed to pass mandatory medical checkout.
- 6) in cases set forth in paragraphs 9 and 10 of Article 84 of this Code once the violation was detected up to the moment the decision is taken to terminate a labor contract with such employee in compliance with the established order.
- 7) when the employee is caught stealing at work place up to the moment the court decision or resolution of the body authorized to impose administrative sanctions, are issued;
- 8) other statutory cases.

Employer shall discharge employee for the whole period of removing circumstances that served the grounds for discharge.

The employee shall not have the right for remuneration for the discharge period except for statutory cases. In case of findings rehabilitating employee on the grounds set forth in paragraph 6 of this Article the employer shall be obliged to pay remuneration for the whole discharge period.

Article 78. Labor relations in the process of changing owners and reorganization

New owner of the organization within three months after obtaining right of ownership may terminate or renew labor contract with chief of the organization, deputies thereof and chief accountant.

Change of the owner of the organization (by any form of privatization), lease of the organization, as well as reorganization thereof (merge, joining, hiving off, conversion), change of accountability or name shall not serve as grounds for termination or renewal of labor contracts with other employees of the organization.

Refusal of the employee to continue working in the organization after change of the owner leads to termination of the labor contract pursuant to paragraph 9, Article 80 of this Code.

New owner of the organization property may initiate staff cuts or downsizing only after title for property was filed with state registration agency.

Article 79. Responsibilities of employer to prevent mass dismissal of employees

Employer shall undertake the following steps to address the threat of mass dismissal of employees upon consultation with trade unions or other employees' representation bodies and appropriate state agency:

- 1) limit or temporarily stop hiring new employees, dismiss part time employees;
- 2) cancel overtime work;
- 3) change significant labor conditions pursuant to paragraphs one and five of Article 73 of this Code;
- 4) gradual discharge of employees;
- 5) other steps if any stipulated by collective-bargaining agreement and contract.

CHAPTER 9. TERMINATION OF LABOR CONTRACT

Article 80. Grounds for labor contract termination

The following are the grounds for termination of labor contract:

- 1) agreement of the parties (Article 81);
- 2) expiry of terms of the labor contract (Article 82);
- 3) employee's initiative (Article 83);
- 4) employer's initiative (Article 84);
- 5) request or agreement of the employee to be transferred to work to another employer or transfer to elected (work) position;
- 6) circumstances beyond control of the parties (Article 89).
- 7) refusal of the employee to be transferred to another work due to health state backed up with medical statement (paragraph 3, Article 76);
- 8) refusal of the employee to continue work due to change in significant labor conditions (paragraph four, Article 73);
- 9) refusal of the employee to continue working in the organization due to change of the owner, change of accountability (supervision agency) and reorganization;
- 10) refusal of the employee to be transferred due to move of the employer to another locality (paragraph one Article 71)

Labor contract could be terminated on other grounds in compliance with this Code and other legislation.

In all cases the last day of work shall be considered as a dismissal date.

Termination of labor contract shall be formalized by issuance of an act (order, resolution) by the employer.

Article 81. Termination of the labor contract upon agreement of the parties

Labor contract with indefinite terms, as well as the labor contract for fixed term could be terminated at any time given written agreement of the parties. Date of the labor contract termination shall be determined upon agreement between employer and employee.

Party to the labor contract that desires to terminate labor contract on these grounds shall send a written notice to another party. The party upon receipt of such notice shall notify another party within three days in writing.

Agreement on termination of the labor contract could be annulled only upon agreement of the parties to labor contract.

Article 82. Termination of fixed - term labor contract

Fixed term labor contract shall be terminated after expiry of terms with a notice sent to the employee three days prior to the expiry.

Labor contract concluded for performance of certain work shall be terminated once such work is completed.

Labor contract concluded for the time of replacement of the absent employee shall be terminated once this employee is back to work.

Labor concluded for seasonal work shall be terminated once such season ends.

Article 83. Dissolution of labor contract initiated by an employee (by own decision)

Employee may terminate labor contract concluded for indefinite period of time or fixed - term labor contract by sending a two week written notice to the employer (14 calendar days). Once the terms of notice expire the employee may cease work process, and employer shall give a labor book and make all appropriate payments to the employee.

Parties may agree to terminate labor contract before the notice terms expire.

The employee may withdraw the application within the notice period unless another employee is already invited to take his place that cannot be denied in granting this work pursuant to this Code and other legislation.

When employee's resignation application states that continuation of work is impossible (due to entering educational establishment; retirement, other valid reasons), or is caused by employer's violation of labor laws and regulations, terms of collective-bargaining agreement, contract or labor contract; the employer shall terminate labor contract on the date as stated in the application. Facts of violating labor legislation, collective-bargaining agreement, contract or labor contract shall be determined by the state supervisory agency on labor legislation compliance or by the court.

When the employer refuses to terminate fixed - term agreement upon employee's request the latter may apply to the court for dispute settlement.

When the termination of fixed - term labor contract is not backed up by valid reason as stated in paragraph four of this Article, employer may request compensation from an employee in the amount not exceeding the size of average monthly wage.

Article 84. Labor contract termination initiated by an employer

Employer may terminate labor contract concluded for indefinite period of time and

fixed - term labor contract prior to expiry in the following cases:

- 1) liquidation of an organization (legal entity), termination of employer's activities (if natural person);
- 2) staff cuts or downsizing, including reorganization of the organization;
- 3) employee does not fit the position held or work done due to:
 - a) health state in accordance with the medical statement;
 - b) insufficient qualification confirmed by test results, statement on failure to meet labor norms, acts on production of defect, other information;
- 4) change of the owner of the organization property (this relates to the chief, deputy chiefs and chief accountant of the organization);
- 5) recurrent failure to comply with labor responsibilities for invalid reason when the disciplinary sanction was imposed on such employee;
- 6) fact of severe violation of labor responsibilities by an employee:
 - a) truancy (absence at work for three hours together or more hours for no valid reason);
 - b) showing up to work in the state of alcoholic, drug or toxic intoxication; such state shall be confirmed by medical statement, witness evidence or act drafted by an employer jointly with the representation body of the employees;
 - c) intended damage or stealing of the organization property at work place;
 - d) employee violates labor protection requirements thus causing grave subsequences including traumas and accidents;
 - e) disclosure of state, business, commercial and other confidential information that the employee had an access to in carrying out labor responsibilities, when the non - disclosure provision was included in the labor contract.

Laws and charters, regulations on discipline passed by the Kyrgyz Republic government may provide other cases of severe violations of labor responsibilities;

- 7) employees that directly deal with money and commodities valuables are guilty in committing actions that damage trust of an employer to such employee;
- 8) employee in the area of education committed immoral act inappropriate for continuation of his work.
- 9) chief of the organization (subsidiary, representation), deputies thereof and chief accountant take an unjustified decision that caused threat to safety, illegal use or other damage to organization's property;
- 10) employee intendedly submits false documents or false information in job application when such documents or information could be used as a reason to refuse in labor contract conclusion.
- 11) severe violation of labor responsibilities committed by chief of the organization (subsidiary, representation), deputies thereof.

Other cases pursuant to this Code and other legislation.

Article 85. Termination of labor contract initiated by an employer upon preliminary agreement of the employees' representation bodies

Employees - members of the representation bodies can not be dismissed pursuant to paragraph 2, subparagraph "b" of paragraph 3 and paragraph 5 of Article 84 of this Code without preliminary agreement of the appropriate representation body of the organization.

In the following cases no agreement of the appropriate representation body of employees is required:

- dismissal from an organization where no representation body exists;
- dismissal of the chief of the organization or deputies thereof, management staff elected, appointed or approved for the position by state power or management bodies, public organizations and other associations of citizens and other statutory cases.

Recommendation of an employer to dismiss an employee shall be considered by the representation body within seven days.

Employer may terminate labor contract within one month after receipt of an agreement from the appropriate representation body.

Article 86. Procedures for labor contract termination initiated by an employer

When considering staff cuts or downsizing the preference shall be given to the employees with higher labor productivity and qualification.

Termination of a labor contract with an employee due to the reasons set forth in paragraphs 8 of Article 80 and paragraphs 2,3 of Article 84 of this Code shall be allowed when it is not possible to transfer an employee to another work upon his agreement.

Termination of labor contract due to the reasons set forth in paragraphs 1 and 2 of Article 84 of this Code shall be allowed with prior notice from an employer one month before dismissal which is personally given to an employee by the employer against a signature, and with consultation with the employees representation bodies and notice of employee dismissal to the state agency on employment, stating profession, speciality, qualification and wage.

During the notice period the employee shall continue carrying out labor responsibilities and complying with labor schedule, the right for labor conditions and remuneration shall be guaranteed equally with the rest of employees, and one day off a week shall be provided to such employee to look for a new job with average labor remuneration reserved.

Two week notice is required from an employer when dismissing an employee that does not fit the position due to health state or improper qualification that constraints continuation of work.

When dismissing an employee due to staff cuts or downsizing, liquidation of an organization the parties may reach an agreement to terminate the labor contract prior to the expiry of the notice with compensation paid at an average daily rate for each day unused day of notice expiry set forth in paragraph three of this Article of the Code.

Employee can not be dismissed during the period of temporary labor incapability or during leave except for the cases set forth in paragraph 1 of Article 84 of this Code (liquidation, termination of employer's activities).

Article 87. Severance payment

Termination of labor contract due to the reasons stated in paragraphs 1 and 2 of Article 84 of this Code shall be followed by severance payment in the amount not less than two average monthly wages.

Termination of labor contract due to the reasons stated in paragraphs 10 of Article 80; subparagraph "a" of paragraph 3, Article 84 and paragraphs 1 and 2 of Article 89 of this Code shall be followed by severance payment in the amount not less than one average monthly wage.

Labor contract or collective-bargaining agreement may provide for other cases when severance payment is provided in regular or higher size.

Article 88. Privileges and compensations to discharged employees

Employees, discharged after termination of labor contract caused by liquidation or reorganization of the organization or staff downsize shall have their average monthly wage reserved with severance payment included and continuation of labor record for the period not exceeding three months given that they register with the state employment agency within ten days after discharge as job seekers. In any case discharged employees by indicated reasons are paid dismissal compensation no less than two (2) monthly average wages.

If after expiry of three months the discharged employee was not offered a proper job, or he twice refuses within the same period to accept job offers, such employee shall have a status of unemployed.

Article 89. Termination of labor contract due to circumstances beyond control of the parties

Labor contract shall be subject for termination in the following circumstances beyond control of the parties:

- 1) conscription of an employee for military or alternative service, or when a spouse is transferred to work in another locality;
- 2) state labor inspection or court take a decision to bring back an employee that carried out this work before;
- 3) rules for admission to work were violated;
- 4) employee was sentenced to a punishment that excludes an opportunity to continue working in compliance with the court verdict that came into effect;
- 5) failure to be elected for elected position;
- 6) death of an employee or employer - natural person, as well as court recognition of employee or employer - natural person as dead or missing;

7) emergency situation that does not allow continuation of labor relations (war, catastrophe, natural disaster and other emergencies) when such circumstance is recognized by the decision of the Kyrgyz Republic government.

Termination of the labor agreement due to the reasons set forth in paragraph 2 of this Article shall be allowed when it is impossible to transfer an employee upon agreement of the latter, to another work.

CHAPTER 10. WORK TIME

Article 90. Definition of work time and norms thereof

Work time is a time within which an employee shall carry out labor responsibilities in compliance with the internal labor schedule rules or work schedule, or terms of labor contract.

Work time shall be computed by setting duration norms for a calendar week (labor week) and within a day (work day, work shift).

Article 91. Normal duration of work time duration

Normal duration of work time may not exceed 40 hours a week unless otherwise stated in this Code.

Labor contracts upon agreement of the parties may set shorter duration of work time.

Article 92. Reduced work timetable for certain categories of employees

Certain categories of employees shall have the right for reduced work timetable with the unchanged labor remuneration:

- 1) at the age of 14-16 - not more than 24 hours per week; at the age of 16-18 - 36 hours per week or less;
- 2) 36 or less hours per week for employees carrying out difficult physical work, or work in harmful or hazardous conditions;
- 3) 36 or less hours per week for disabled persons with I and II disability rate.

The government of the Kyrgyz Republic shall determine the list of production, shops, professions and positions, as well as the list of works in difficult, harmful or hazardous labor conditions, eligible for reduced work timetable.

Article 93. Reduced work timetable for employees with specific nature of work

Certain categories of employees (physicians, teachers, etc.) whose work requires higher mental, nervous and emotional strains shall have the right for reduced work timetable.

The government of the Kyrgyz Republic shall determine such categories of employees and precise duration of work for them.

Article 94. Partial work time

Employer and employee may reach an agreement before employment starts or later to set partial labor day or week. Employer shall be obliged to provide partial labor day or week upon such request from pregnant women, one of the parents (tutor, guardian) of a child under 14 years (disabled child under 18), as well as a request from a person taking care of ill member of family due to medical statement.

Remuneration for partial work time shall be made pro rata worked off time or outcome of work.

Taking partial work time shall not impact duration of annual principal paid leave, labor record and other labor rights.

Article 95. Five day and six day labor week

Internal labor schedule or shifts schedule approved by an employer upon consultation with the employees' representation bodies shall determine whether it is five-day labor week with two days off or six day labor week with one day off.

For six day labor week with one day off the duration of work per day (shift) shall not exceed 7 hours with weekly norm of 40 hours, 6 hours with weekly norm of 36 hours and 4 hours with weekly norm of 24 hours.

Article 96. Duration of work during the day (shift)

Duration of work during a day (shift) may not exceed:

5 hours for employees at the age from 14 to 16 years, 7 hours for employees at the age from 16 to 18 years;

2,5 hours for the students of regular schools, primary and secondary vocational schools that combine work with studies at the age from 14 to 16, 3,5 hours for same group at the age from 16 to 18;

for disable persons - in compliance with the medical statement.

8 hours or less for employees, carrying out difficult physical work, or work in harmful and hazardous conditions with reduced timetable (36 hours per week).

Laws, other normative and legal acts, collective-bargaining agreement or labor contract may set duration of work during a day (shift) for the creative employees of the cinema, TV and video operator groups, theatre and concert organizations, circuses, mass media and professional athletes pursuant to the list of categories of such employees passed by the government of the Kyrgyz Republic.

Article 97. Duration of work on a day followed by a holiday

Duration of the work day (shift) preceding non - working holiday shall be one hour shorter.

Employees of the organizations with reduced timetable do not have the right for reduction in duration of work day (shift) preceding non-working holiday.

When it is impossible to cut work day (shift) for one hour on a work day (shift) preceding non-working holiday in the interrupted operation organizations due to work specifics, overtime shall be compensated by granting additional time for rest or given employee's agreement, in cash on overtime rate.

Article 98. Work in night time

Time from 10PM to 6AM shall be considered as nighttime.

Work (shift) duration in nighttime shall be one hour shorter.

Employees that work in accordance with reduced timetable do not have the right for one-hour reduction of work in nighttime; same shall be applied for the employees specifically hired for work in nighttime unless otherwise stated in the collective-bargaining agreement.

Duration of work in nighttime shall be same as the one in daytime when it is required by labor conditions (interrupted production process, organizations, etc.) or for work in shifts with six-day week and one day off. The list of such works could be determined by the collective-bargaining agreement, internal normative acts.

Disabled persons and pregnant women could be called up to work in nighttime unless such regime is prohibited due to medical statement.

Women with children under three years, employees with disabled children may be called up to nighttime work given their agreement only.

Minors shall not be called up to nighttime work.

Collective-bargaining agreement, internal normative acts or agreement of the labor contract parties may determine the procedures of night time work for the creative employees of the cinema, TV and video operator groups, theatre and concert organizations, circuses, mass media and professional athletes pursuant to the list of categories of such employees passed by the government of the Kyrgyz Republic.

Article 99. Work beyond the limits of normal work time duration

Work beyond the limits of normal work time duration could be carried out both upon the initiative of an employee (holding more than one positions) and employer (overtime work).

Article 100. Work beyond normal work time duration upon employee's initiative (holding more than one positions)

Employer upon employee's initiative may allow to work under another labor contract in the same organization on another profession, speciality or positions beyond normal work time duration in compliance with the internal procedures for holding more than one position.

Employee may conclude labor contract with another employer to work in accordance with external procedures for holding more than one position unless otherwise stated in this Code and other legislation.

Work beyond normal work time duration may not exceed four hours per day and 16 hours per week.

Holding more than one position within the same organization shall not be allowed in cases of reduced work time duration unless otherwise stated in this Code and other laws

Article 101. Work beyond the limits of work time duration upon employer's initiative (overtime work)

Overtime work is a work carried out by the employee upon employer's initiative in excess of established work time (daily work, shift) duration, as well as work carried out in excess of normal quantity of work hours within the accounting period.

Calling up to overtime work shall be done upon suggestion, order or consent of an employer and upon written agreement of an employee.

Overtime work shall be allowed in the following extraordinary cases:

1) works required for defense of the country or for prevention of production accidents or removal or subsequences of production accidents or natural disasters;

2) necessary works for public in the area of water, gas, heating, electricity supply, drainage, transportation, communication - for removal of unexpected circumstances that constraint normal functioning thereof;

3) necessity to carry out (complete) work which was not completed during normal work hours due to unexpected delay caused by technical production conditions, when failure to carry out (complete) such work may entail damage or destruction of employer's property, state- or municipally-owned property, or pose a threat to life and health of people;

4) carrying out temporary work to fix and recover mechanisms or facilities when disrepair thereof may lead to termination of work for a significant number of employee;

5) continue work when shift colleague does not show up, when no break is possible. In such cases employer shall immediately take steps to replace the shift person by another employee.

No overtime work for more than four hours within two days in a row shall be allowed for the same employee.

It shall be prohibited to call up to overtime work the employees that carry out difficult physical work, or work in harmful or hazardous labor conditions.

Disabled employee or pregnant women could be called up to overtime work unless such work is prohibited by medical statement. Minors shall not be allowed to work overtime.

Employer shall ensure precise record of overtime work for each employee. Employee may request the information on the number of such overtime hours.

Article 102. Work time regime

Work time regime shall specify duration of labor week (five day with two days off, six day with one day off, labor week with flexible weekend), unlimited work time for certain categories of employees, daily work (shift) duration, time in and off work, time of breaks, number of shifts per day, changing work days and days off, to be set forth in collective-bargaining agreement or in the internal labor schedule of the organizations given compliance with work time duration as stated in this Code.

The government of the Kyrgyz Republic shall determine specific regimes of work and rest for the employees working in the area of transportation, communication and other specific areas.

Employees shall be notified of labor regime two weeks before it comes into effect.

Article 103. Work time regime in shifts

Work time regime in shifts shall be determined in accordance with shifts schedule. Employees shall change shifts evenly.

Minimal duration of daily rest between shifts (time off at previous shift and time in for the next shift) shall include the time for rest and meals break shall not be less than double duration of shift preceding rest.

It shall be prohibited to appoint employees to stand for two shifts in a row.

Article 104. Summarized record of work hours

Whenever the organizations due to specific nature of production (work) believe it is impossible or economically inexpedient to comply with normal daily or weekly work hours for certain categories of employee; they may apply summarized record of work hours given that duration of work for the accounting period (month, quarter, etc.) does not exceed normal number of work hours. Accounting period may not exceed one year.

Daily or weekly duration of work time could be more or less than normative number of work hours for day or week, when recorded in accordance with summarized record system.

Accounting period for summarized record system means a period that complies with the average workday or week duration for this category of employees. Accounting period could be determined by calendar periods or the periods for carrying out certain work.

Normative number of work hours within the accounting period shall be computed by multiplying normative number of hours of work day (shift) in compliance with the labor schedule with regard to holidays and night time on the number of work hours within the accounting period.

Internal labor schedule shall determine the procedures for introduction of the summarized work hours record system.

Article 105. Splitting work day

It is allowed to split work day for several parts given that total duration of work time does not exceed normal number of work hours, at the works when such splitting is required due to specific nature of work, as well as for production processes that presume uneven intensity during work day (shift).

Collective-bargaining agreement, contract or agreement between employer and representation bodies of employees shall determine types of works that require splitting work day, quantity and duration of breaks, types and size of compensation to employees for such work.

Time of breaks during the work day shall not be included in the work time.

Article 106. Flexible work time regime

Flexible work time regime shall set the time of mandatory presence at work place (fixed hours) and flexible (subject to change) time within which employees may come and leave work upon their consent.

Duration of fixed time and every part of flexible time shall be determined upon agreement of the parties.

Maximum duration of flexible hours during the work day shall not exceed ten hours, for the accounting period the total number of work hours shall be equal to the norm of hours for such period.

Employer shall ensure employee works off total number of work hours during appropriate accounting periods (work day, week, month, etc.).

Article 107. Unlimited work day

Unlimited work day assumes specific regime of work when certain employees from time to time could be called up to work upon employer's order beyond normal duration of work time.

List of positions of employees with unlimited work day shall be set forth in collective-bargaining agreement, contract or in the internal labor schedule of the organizations.

Article 108. Accounting work hours

Employer shall organize keeping records of the hours actually worked off by employee for this employer.

Records of the time starting and ending work shall be made in time - sheets of established form, annual time sheets and other documents.

Actual work time, which includes worked off and non - worked off time, is subject for record. Additional work time shall include overtime hours, hours worked off by piece - employees; time, spent in business trips. Non - worked off time shall specify paid and unpaid time off, as well as losses of work time regardless of employee's fault.

Actual time shall be recorded once employee shows up at work place in accordance with the labor schedule, schedule of shifts or specific order of an employer, up to the moment when employee actually leaves work this day (shift) .

Idle time shall be recorded when backed up by the wasted time record sheet and other documents.

CHAPTER 11. REST TIME

Article 109. Definition of the rest time

Rest time is a period of time within which an employee shall be released from job responsibilities, and which is used upon his own discretion.

Article 110. Types of periods for rest:

The following are the types for periods for rest:

- breaks during work day (shift);

- daily (between shifts) rest;
- weekends (weekly uninterrupted rest);
- holidays;
- vacations.

Article 111. Break during work day (shift) for rest and meal

A break for rest and meals shall be provided on a daily basis to the employees during daily work (shift) of an employee for not less than 30 minutes and not more than one hour in total, which is not included in the work time.

Time for giving such break and duration thereof shall be set in the internal labor schedule of the organizations or upon agreement between employee and employer.

Break could be used in two parts. Time of lunch break could be set for all employees or separately for structural subdivisions, brigades and certain groups of employees.

When provision of meals or rest breaks is impossible due to production (work) conditions, the employer shall provide employees with an opportunity to have rest or meal during work hours. List of such works, requirements for places to have rest and meals shall be set in the internal labor schedule of the organizations.

Article 112. Special breaks for warming up and rest

Certain types of work shall set forth provision of special breaks for an employee during working hours in accordance with the technological specifics and organization of production process and labor. Such types of jobs, duration and procedures for provision of such breaks shall be set in internal labor procedures of the organization.

Employees that work in cold seasons of the year in open air or in unheated facilities, as well as loaders loading - unloading cargo when necessary shall be given breaks for warming up and rest during work hours. Employer shall be responsible to equip premises for warming up and rest for employees.

Article 113. Duration of weekly uninterrupted rest

Duration of weekly uninterrupted rest shall not be less than 42 hours.

Article 114. Days off

All employees shall be granted days off (weekly uninterrupted rest) – two days for five-day business week, one day – for six day business week.

Sunday shall be the general day off, whereas the second day off shall for five-day business week shall be set forth in internal schedule or schedule of works unless otherwise stated upon consent of both parties. Normally days off should follow each other.

Organizations where suspension of work for days off is impossible due to production – technical and organizational conditions shall grant each group of employees days off in different days of week in accordance with internal labor schedule of such organization.

Article 115. Holidays

The following are non-working holidays of the Kyrgyz Republic:

January 1 - New Year;

March 8 - Women's Day;

March 21 - People's Holiday of Nooruz;

May 1 - Labor Day;

May 5 - Constitution Day of the Kyrgyz Republic;

May 9 - Victory Day;

August 31 - Independence Day of the Kyrgyz Republic;

November 7 - anniversary of the Great October Socialist Revolution.

The Muslim holidays of "Orozo Ait" and "Kurman Ait" determined according the lunar calendar and January 7 - Christmas (Orthodox Church Christmas) are non-working days.

In the event of coincidence of a general day off (Sunday) and a holiday, the day off shall be postponed till the working day following the holiday.

The works impossible to stop due to the specifics of the trade and technology (organizations with uninterrupted labor process); the works requiring permanent servicing of the population, and emergency repairs and loading and unloading operations shall be permitted to perform on holidays.

The government of the Kyrgyz Republic may transfer weekends for other days for rational use of weekends and non - working holidays by employee.

Article 116. Banning work on weekend and non - working holidays. Exceptions

Normally work shall be prohibited on weekends and non - working holidays.

Employees could be called to work on weekends and non - working holidays upon their written consent in the following cases:

to prevent technical accident, catastrophe, removal of consequences of the technical accident, catastrophe or natural calamity;

to prevent accidents, destroyal or damage of equipment;

to accomplish unexpected tasks that may affect normal work of the organization in entirety or in subdivisions thereof.

It shall be allowed to call to work on weekends and non - working holidays creative employees of the organizations of cinemas, TV and video operator collectives, theatres, theatre and concert organizations, circus, mass media and professional athletes in accordance with the list of categories of such employees from state funded organizations in compliance with the procedures set by the government of the Kyrgyz Republic, from all other organizations - along with the procedures set forth in the collective-bargaining agreement.

In all other cases written consent of an employee and agreement of the representative body of this organizations is required to allow work on weekends and non - working holidays.

Disabled people and pregnant women could be called to work on weekends and non - working holidays only when such work is not prohibited by their medical state.

Written order of an employer authorizes calling employees to work on weekends and non - working holidays.

Article 117. Reimbursement for working on weekends or non - working holidays

The work on a day off may be reimbursed by mutual agreement of the parties by providing another day off or by prolongation of the annual leave, or by at least double payment.

Article 118. Annual paid leave

Employees shall be granted annual leaves with reserving work place (position) and average wage.

Article 119. Duration of annual principal paid leave

Employees shall be granted annual principal paid leave for 28 calendar days.

Annual principal paid leave longer than 28 days (extended principal leave) could be granted to employees pursuant to this Code and other laws.

Article 120. Extended principal leave

Extended annual leave with duration more than 28 days shall be granted to:

- 1) civil servants pursuant to the Kyrgyz Republic legislation;
- 2) employees under 18 (including those accepted for professional training) and disabled persons - thirty calendar days. When an employee reaches age of 18 or disability is removed during the work year, in which an extended annual leave was granted, duration of the latter shall not be reduced;
- 3) employees of forest production and forestry - thirty calendar days. The government of the Kyrgyz Republic shall compile the list of industries, works, professions and positions that could be granted the right for an extended principal leave.

Article 121. Annual additional paid leave

Annual additional paid leaves shall be provided to employees that work in harmful and (or) dangerous work conditions; employees with specific nature of work; employees with unlimited work day; employees working in mountainous areas and similar status areas, as well as in other cases as stipulated by the legislation.

Organizations with regard to their production opportunities and financial resources may independently set additional leaves for employees unless otherwise stated in the legislation. Procedures and terms for granting such leaves shall be set forth in collective-bargaining agreements or internal normative acts of the organizations.

Article 122. Annual additional paid leave for employees that work in harmful and (or) dangerous work conditions

Annual additional paid leave for at least seven calendar days shall be granted to employees that work in harmful and (or) dangerous work conditions, in underground mining works, open mining works, in cuts and quarries, in radio active contamination zones, other works related to irrecoverable harmful impact on human health from physical, chemical, biological and other factors.

The government of the Kyrgyz Republic shall compile the list of industries, works, professions and positions that could be granted the right for an additional paid leave for work

with harmful and/ or dangerous work conditions, as well as minimum duration of this leave and the procedures for granting thereof.

Article 123. Annual additional paid leave for specific nature of work

Annual additional paid leave for specific nature of work for at least twelve calendar days shall be granted to certain categories of employees, whose work is related to peculiarities in work accomplishment.

The government of the Kyrgyz Republic shall compile the list of industries, works, professions and positions that could be granted the right for an additional paid leave for specific nature of work, as well as minimum duration of this leave and the procedures for granting thereof.

Article 124. Annual additional paid leave for employees with unlimited work day

Employees with unlimited work day shall be granted annual additional paid leave with leave duration as set forth in the collective-bargaining agreement or internal labor schedule of the organizations, in the amount not less than three calendar days. When no such leave is provided, the time of work exceeding normal duration of work day shall be compensated by overtime payment.

Procedures and terms for granting annual additional paid leave to employees with unlimited work day in the republican budget - funded organizations shall be set by the Kyrgyz Republic government; whereas for local budget - funded organizations - by local governance bodies.

Article 125. Computation of annual paid leave duration

Duration of annual principal and additional paid leaves for employees shall be computed in calendar days. Non - working holidays during the leave shall not account against leave duration and will not be paid for.

In cases provided by this Code duration of annual principal paid leave shall be computed in work days by six-day labor schedule.

When computing total duration of annual paid leave, duration of additional paid leave shall be added to duration of annual principal paid leave.

Article 126. Business year

A business year for which a labor leave may be given is a period of time equal to a calendar year but calculated individually for every employee starting from the date on which the employee is hired.

Article 127. Period included in the business year for which an annual principal paid leave may be granted

Business year for which an annual principal paid leave is granted shall include:

time of actual work;

time when employee did not work de facto, but his job (position) was reserved pursuant to laws and regulations, including time of annual leave;

time of forced day off when unlawfully dismissed or setting aside from work with rehire for the same job followed;

other periods of time set forth in collective-bargaining agreement, labor contract or internal normative acts of the organization.

Business year for which an annual principal paid leave is granted shall not include:

Absence of employees at work not backed up by valid reason (including discharge from work in cases set forth in Article 77 of this Code);

Statutory maternity leave;

Unpaid leave requested by employees for the period over 14 calendar days.

Business year enabling with the right for annual additional paid leave for work with harmful and (or) hazardous labor conditions shall include only the period actually worked off in such conditions.

Article 128. Procedures for granting annual paid leave

Paid leave shall be granted every year.

Consecutive eleven months of work in the organization shall give a right to the employee for a leave in the first year of work. Parties may agree to grant paid leave before expiry of eleven months.

Paid leave could be provided upon request before expiry of eleven months to the following employees:

- 1) women – before pregnancy and childbirth leave or right after it;
- 2) employees at or under the age of eighteen;
- 3) part – time employees when leave at the principal place of work is granted in the period between eleven months of work at part time job;
- 4) employees, that adopted a child (children) under the age of three months;
- 5) in other statutory cases.

Leave for second and subsequent years of work can be granted at any time within the business year in accordance with the schedule of providing annual paid leave set for this organization.

It shall be allowed to provide a leave pro rata worked off part of the business year but not less than 14 calendar days except for in cases listed in paragraphs one and three of this Article.

When the principal leave is given in advance for the first year of work before expiry of mandatory eleven months, additional labor leaves if any shall be granted pro rata worked off part of the business year unless otherwise stated in the collective-bargaining or labor agreements.

Article 129. Registration of leaves

Leaves shall be registered upon an order (direction, resolution) or memorandum on granting a leave to be signed by duly authorized person on behalf of the employer.

Employer shall ensure registration of leaves.

Format of the memorandum on leave shall be established by the Kyrgyz Republic Government.

Article 130. Order of granting annual paid leave

Order of granting paid leaves shall be determined annually in accordance with the schedule of leaves to be approved by an employer two weeks prior to the start of the new calendar year. Both employer and employees shall comply with the schedule of leaves.

Employees shall be notified of the time for leave two weeks prior to the date. Leave payment shall be made not later than three days before leave starts.

Certain categories of employees in accordance with statutory provisions shall be granted annual paid leave at any time convenient for them.

Article 131. Prolongation or postponement of annual paid leaves

Annual paid leave can be prolonged in the following cases:

-temporary disability of an employee;

-when employees carried out some government responsibilities during the annual paid leave which require free time from work in accordance with the law;

-in other cases as set forth in legislation; collective-bargaining agreements or internal normative acts of the organization.

When the reasons listed in part one of this Article originated before the leave started, than the leave may be postponed upon request of the employee until the date agreed upon by employer and employee.

Employee shall notify employer in writing of the reasons hampering taking leave within the planned period and those for leave prolongation.

Upon request from an employee the leave shall be postponed until another date if an employee was not paid for leave in time, or notified of the starting date of leave later than two weeks before the leave.

In exclusive cases when granting leave in the current business year to an employee may negatively affect normal run of an organization, upon consent of the employee the leave could be postponed until the next business year.

The leave can not be postponed for two years in a row, it is also prohibited to refuse to grant annual paid leave to minors or persons working in harmful and (or) hazardous work conditions.

Article 132. Splitting annual paid leave. Recall from leave

Employee and employer may reach an agreement to split annual paid leave, if no part is less than fourteen calendar days.

Employee can be recalled from leave only given his prior consent. Remaining part of the leave shall be granted to an employee at any time convenient for him either in the current

business year or added to the leave for the next business year.

Employees under the age of eighteen, pregnant women or persons working in harmful and (or) hazardous work conditions may not be recalled from leave.

Article 133. Cash reimbursement of annual paid leave

Part of the leave exceeding 14 calendar days upon written request of an employee can be compensated in cash.

No such cash reimbursement shall be provided for employees under the age of eighteen and persons working in harmful and (or) hazardous work conditions.

Article 134. Exercising right for leave in the process of dismissal

Employee prior to dismissal shall be paid cash reimbursement for all unused leaves.

Employee may request in writing to use all unused leaves before dismissal (except when dismissed for illegal actions). In such cases last day of leave shall be considered as dismissal date.

When dismissal is related to the end of the labor contract, leave followed by dismissal may be granted when the time of leave partially or fully exceeds the terms stated in the agreement. In such cases last day of leave shall be considered as dismissal date.

When granting a leave followed by dismissal to an employee that had initiated termination of labor contract, such employee may recall dismissal request before the leave starts, unless another employee took his job in accordance with transfer procedures.

Article 135. Unpaid leaves

Employee upon written request on leave due to family circumstances and other valid reasons may be granted an unpaid leave for the duration as agreed between employee and employer.

Employer shall grant unpaid leave on the basis of employee's request in the following cases:

participants of Great Patriotic war and persons enabled with similar privileges, liquidators of the accident on Chernobyl nuclear power station - up to fourteen workdays per year;

parents and spouses of military deceased after wound, contusion or mutilation incurred while defending motherland, or after war - related disease - up to fourteen years per month;

working disabled people - up to 60 calendar years per years;

employees - in case of childbirth, marriage registration, death of immediate relatives - up to 5 calendar days;

in other cases provided for in this Code, other laws or collective bargaining agreement.

Article 136. The right of certain categories of employees to use annual labor leaves at any time convenient for them or in a certain period of time

A labor leave at any convenient for an employee time may be given to:

- 1) the employees who have two or more children under 14 or a disabled child under 18 years of age;
- 2) employees - veterans of Great Patriotic war and persons enjoying similar privileges;
- 3) the employees who are given this right by the Law on Social Protection of the Citizens Damaged in the Accident at the Chernobyl Nuclear Power Station;
- 4) disabled people.

The following categories of employees may be given extraordinary labor leaves within a certain period in any season of a year convenient to them:

- 1) employees under 18 years of age - in summer time (June-August);
- 2) employees combining work with studies in general education institutions, primary and secondary vocational schools, and higher education institutions - prior or during the introductory classes, preparation of course and diploma papers, and/or examinations and tests;
- 3) employees whose spouses are on pregnancy and birth leaves - within the period of such leaves;
- 4) persons combining several jobs - simultaneously with the one on principal job;
- 5) pregnant women;
- 6) single mothers with a child under 14 years of age.

Article 137. Procedures for calculation of labor leave duration pro rata worked off time

The length of a labor leave proportional to the period of time worked off during the business year shall be calculated by multiplying the length of leave per every business month by the number of months worked off during the business year.

In the total length of the leave proportional to the worked off time the decimal numbers equal to 0,5 and more shall be carried over to the nearest whole numbers, and the numbers less than 0,5 - ignored.

The calculations of the whole months worked off within a business year shall be calculated as follows:

- 1) calculate the days included into a business year;
- 2) the derived number shall be divided by the average number of business days per month of the year;
- 3) the remainder comprising 13 and more business days shall be carried over to a whole month, and less than 13 working days shall not be accounted.

Article 138. Withdrawal of labor leave given in advance from wage of the employee before resignation

If an employee resigns before the end of the labor year for the account of which the employee used labor leave given in advance, the employer shall have the right to withdraw cash from the wage in the amount equal to payment for the days of leave that were not worked off unless the provisions of paragraph two of this Article may be applied.

No withdrawal is allowed:

- 1) when resignation of the employee is due to the reasons beyond the control of the employee as provided by paragraph 1, 2, sub paragraph "a" of paragraph 3 and paragraph 4 of Article 84, paragraphs 1, 2, 6 and 7 of Article 89 of this Code, as well as by own desire to study or to retire;
- 2) any pays due to the employee are not accrued in the course of the resignation procedure;

3) if the employer in spite of having the appropriate right has not made the deductions in the course of the final payments or withdrew only part of employee's indebtedness.

Article 139. A leave on pregnancy and childbirth

Women upon request and upon medical statement shall be given a leave on pregnancy and childbirth with the duration of seventy calendar days before childbirth and fifty six (in case of complicated childbirth and seventy for birth of two or more children) calendar days after the birth, and paid public social insurance in the statutory amount.

The leave on pregnancy and birth shall be calculated in total and granted to the women regardless of the number of the days actually spent on leave prior to the childbirth.

Article 140. Maternity leave

Working women upon request shall be granted additional unpaid maternity leave until child reaches the age of eighteen months. Parties of the labor agreement may agree to increase the maternity leave for eighteen more months.

Maternity leave could also be used in entirety or by parts by father, grandmother, grandfather and any other relative of the child or guardian de facto taking care of the child.

Women or persons stated in paragraph two of this Article upon request may be granted an opportunity to work part time or at home during maternity leave.

The above employees' work place shall be reserved during maternity leave.

Maternity leaves shall be added to general and professional work record (except when calculating pension on preferred conditions, for duration of work and other statutory cases).

Article 141. Leave for persons who adopted newly born children

Those employees who adopted a baby under 3 months old are entitled to a maternity leave for the period from the date of adoption till 70 days after the date of birth of a child (110 days in case of adoption of two or more children); the national social insurance is paid for this period.

Upon application of an employee who adopted a child under 3 months old he/she is provided with an additional maternity leave provided for by Article 140 of this Code.

Article 142. Educational leave for employees combining work and education in vocational institutions

Employees directed by the employer for normal and distant (evening) learning to nationally accredited higher vocational institutions irrespective of their organizational and legal form and who are good students shall have an additional leave with maintenance of average remuneration on the following terms:

40 calendar days to pass first and second year tests and exams, correspondingly, and

50 calendar days during subsequent years;

4 months to prepare and present diploma paper and pass final state exams;

1 month for final state exams.

The employer shall provide an unpaid leave:

To employees admitted to pass entrance tests in higher vocational institutions – 15 calendar days;

To employees attending preparation courses in higher vocational institutions when they pass finals – 15 calendar days;

To employees who combine study at higher vocational institutions with work when they pass tests and exams – 15 calendar days in an academic year, when they prepare and present diploma paper and pass finals – 4 months, to pass finals – 1 month;

Once in an academic year the employer shall pay for a return ticket of a distant student of higher vocational institutions to the place where such an institution is located so that a student can perform laboratory works, pass tests and exams as well as pass finals, prepare and present diploma paper.

Guarantees and compensations to the employees who entered higher vocational institution on their own initiative (without assignment of the employer) and combine work and education are established by a collective agreement or labor agreement.

Article 143 Educational leaves for employees who are educated in elementary and secondary institutions of vocational training

If an employee is directed by the employer for normal and distant (evening) education to the nationally accredited institutions of elementary and secondary vocational training irrespective of their organizational and legal forms and if the employee is a successful student, then the employer shall provides additional leaves for the following purposes, average remuneration maintained:

30 calendar days to pass first and second year tests and exams, correspondingly, and

40 calendar days during subsequent years;

2 months to prepare and present diploma paper and pass finals;

1 month for final state exams.

The employer shall provide an unpaid leave:

To employees admitted to pass entrance tests in elementary and secondary vocational training institutions – 10 calendar days;

to employees who combine study at elementary and secondary vocational training institutions with work when they pass tests and exams – 10 calendar days in an academic year, when they prepare and present diploma paper and pass finals – 2

months, to pass finals – 1 months.

Once in an academic year the employer shall pay for a return ticket of a distant student of elementary and secondary vocational institutions to the place where such an institution is located so that a student can perform laboratory works, pass tests and exams as well as pass finals, prepare and present diploma paper.

Guarantees and compensations to the employees who entered elementary and secondary vocational training institution on their own initiative (without assignment of the employer) and combine work and education shall be established by a collective agreement or labor agreement.

Article 144 Guarantees and compensations to the employees educated in institutions of elementary vocational training

Those employees who are successful students of the nationally accredited institutions of elementary vocational training irrespective of their organizational and legal form are entitled to an additional 30 calendar day leave during a year to pass their exams, average remuneration maintained.

Article 145 Educational leaves for employees educated in evening (shift) institutions of general education

The employer provides an additional leave of 10 calendar days to those employees who are successful students of the nationally accredited evening (shift) institutions of general education irrespective of their organizational and legal form to pass their finals in IX grade, and 22 calendar days for XI (XII) grade, average remuneration maintained.

Article 146 Procedure to provide guarantees and compensations to the employees who combine work and education

Guarantees and compensations are provided to the employees who combine work and education if they are educated at the corresponding level for the first time.

Guarantees and compensations to a person who work and study at two educational institutions simultaneously are paid only for one of those educational institutions (at the employee's option).

CHAPTER 12. LABOR REGULATIONS. LABOR DISCIPLINE

Article 147 Labor regulations of an organization. Discipline charters and regulations.

Internal labor regulations in an organization are defined by rules, approved by the employer after preliminary discussions with the representative employees' body or any other local standard acts of the organization.

Internal labor regulations and other local standard acts of an organization shall define the procedure of employment and dismissal of employees, basic rights and responsibilities of the parties to a labor contract, operating conditions, time for rest, as well as incentives and penalties applicable to the employees and any other issues of regulating personnel management in an organization.

For individual categories of employees statutes and discipline regulations may be introduced which shall be approved by the Government of the Kyrgyz Republic.

Article 148 Incentives

The employer can apply incentives measures for achievements in labor, which are provided for by internal labor regulations of an organization (declare thanks, give bonus, present a valuable present or a diploma, or declare a person the best in his/her profession).

Any other form of incentive for labor shall be established by a collective agreement or internal labor regulations of an organization as well as statutes and regulations on discipline. For special achievements in labor an employee may be recommended for the national award.

Article 149 Disciplinary punishments

For breach of labor discipline, i.e., unlawful non-performance or improper performance of his/her labor duties the employer is entitled to apply the following disciplinary punishments;

- 1) remark;
- 2) reprimand;
- 3) dismissal on the proper grounds.

For individual categories of employees other disciplinary punishments may be provided for by legislative acts, statutes or discipline regulations.

Measures of disciplinary punishment not provided for by the legislative acts, statutes or discipline regulations shall not be allowed.

Article 150 Procedure to apply disciplinary punishments

Disciplinary punishments are applied by managers of an organization or authorized officials.

Before disciplinary punishment is applied an employee shall be requested to provide an explanation in writing. Failure to provide such an explanation is registered officially by an act and cannot serve as obstacle to apply the above punishment.

Disciplinary punishment is applied directly after the misdemeanor is revealed but not later than one month after the date of revealing, excluding period of sick leave or leave of the employee.

Punishment cannot be applied later than 6 months since the date of misdemeanor, for punishment based on results of an audit, inspection of financial or economic activities later than 2 years since the date of misdemeanor. The above time period does not include time for criminal consideration.

When disciplinary punishment is applied the gravity of the misdemeanor committed is taken into account and also circumstances under which it was made and earlier performance.

Only one disciplinary punishment is applied for each misdemeanor.

An order or instruction to apply disciplinary punishment is announced to an employee on receipt within three workdays since the date when it was issued. In case an employee refused to sign the above order or instruction the relevant act is drawn up.

Article 151 Procedure to appeal against disciplinary punishment

Disciplinary punishment may be appealed according to the procedure set for consideration of individual labor disputes in the form of statements of claim or in the State Labor inspection.

Agency responsible for consideration of individual labor disputes in the form of statements of claim and the National Labor Inspection take into account compliance of the disciplinary punishment with the gravity of committed misdemeanor as well as circumstances under which it was committed and earlier performance of the employee.

Article 152 Period of validity of a disciplinary punishment

Disciplinary punishment is valid within one year since the date of its application. If within this period an employee is not subject to a new disciplinary punishment he/she is considered clear of any disciplinary punishment.

The employer who applied the disciplinary punishment is entitled to remove it before one year is expired on his/her own initiative, on request of the employee, on petition of representative employees body or immediate superior of the employee.

Article 153 Bringing a manager of an organization or deputy-managers to disciplinary account upon application of the representative employees' body

The employer (owner of the property) shall consider an application from a representative employees' body regarding a breach of law or other standard labor acts, terms of collective agreement or a contract by a manager of an organization or the deputy-managers and report to the representative employees body about the outcome of the consideration.

In case such a breach is proved, the employer is entitled to apply a disciplinary punishment to the manager of the organization or the deputy-managers, down to dismissal.

PART IV. REMUNERATION OF LABOR AND NORM-SETTING. GUARANTEES AND COMPENSATIONS.

CHAPTER 13. REMUNERATION OF LABOR.

Article 154 Main terms and definitions

Remuneration of labor is a system of relations involving the employer's support, establishment and execution of payment to the employees for their labor in accordance with the laws or other standard legal acts, collective agreements, contracts and local standard acts and labor contracts.

Earnings are a reward (indemnification) for labor depending on complexity, quantity, quality and conditions of labor as well as payment of compensatory and stimulating nature.

Minimum earnings (minimum rate of remuneration of labor) is a rate of monthly payment for unskilled labor guaranteed by law to a person who worked full hours and fulfilled simple assignments under normal conditions of work.

Base-rate (salary scale) is a fixed rate of remuneration of labor of an employee for the executed rate of labor (labor duties) of a certain complexity (qualification) per unit of time.

Tariffing of work – assignment of wage category or qualification categories to different kinds of labor depending on its complexity.

Wage category is a value reflecting complexity of labor and qualification of an employee.

Skill category is a value reflecting the level of professional training of an employee.

Tariff scale is the total of wage categories for different jobs (professions, positions) defined depending on complexity of work and job descriptions by means of tariff coefficients.

Tariff system is a system of norms used to differentiate between wages/salaries of different categories of employees.

Article 155 Remuneration of employees' labor

The employer shall pay for the labor of an employee in accordance with this Code, collective contract and labor contract.

Work is paid by the hour, by piece or by any other system of remuneration of labor. Payment can be in accordance with individual and/or collective labor. Rate of remuneration cannot be lower than minimum rate of remuneration established by law.

Remuneration of employees' labor is defined in accordance with the quantity, quality and complexity of the executed work.

Qualification requirements and complexity of certain kinds of labor are established based on wage-rates and skills handbook and manual of employee positions. Development of such manuals and handbooks and procedure of using them are defined by the authorized government body in the field of labor. It is the employer's responsibility to identify complexity of labor and give skill category to employees in accordance with wage-rate and skills handbook and manual of employee positions.

A list of rewards related to remuneration of labor is defined by the government of the Kyrgyz Republic.

Article 156 Form of remuneration of labor

Payment of wages and salaries is made in pecuniary form in the currency of the Kyrgyz Republic (Som).

Remuneration of labor in the form of promissory notes, receipts, food or good ration cards or any other similar substitutes of money is prohibited.

Article 157 Fixing minimum wages

Minimum wage is fixed by law simultaneously everywhere in the Kyrgyz Republic and shall not be less than subsistence level of an able-bodied person.

Monthly wage of a person who worked off during that period standard working hours and performed standard quota of labor (labor duties) shall not be less than minimum size of remuneration established by law.

When payment is made based on tariff system, tariff rate (salary) of the first rate in the tariff scale shall not be less than minimum size of wage.

Minimum wage shall not include additional payment and rises, bonus and other incentive payments as well as payments for work under conditions deviating from normal conditions, for work under peculiar climatic conditions and on the territories subject to radioactive contamination, other compensational and social payments.

Procedure to calculate subsistence level and its size shall be established by the law of the Kyrgyz Republic.

Article 158 Fixing wage

Systems of wages , salary tariff rates, correlation between the rates for individual categories of employees, systems of bonuses, procedure and terms of payment, bonus for results of annual operation, long-service bonus and other forms of material incentives shall be defined by agreements, collective agreement (in its absence – by the employer upon consultation with trade union or other representative body), local standard acts of organizations and labor contracts.

Systems and rate of wages of employees in public organizations financed from the state budget shall be established in accordance with the procedure defined provided for by the legislation of the Kyrgyz Republic and other standard legal acts.

Terms of remuneration for work under labor contract shall not be made worse compared to the established laws, other standard legal acts, agreements and collective agreement.

Terms of remuneration defined by an agreement, collective agreement, local standard acts of organizations shall not be worsen compared to the established laws.

Article 159 Providing increased level of real contents of wage

Providing increased level of real content of wage includes indexation of wage with growth of consumer prices for goods and services. In organizations financed by an appropriate budgets, indexation of wage of the employees shall be made in accordance with the procedure provided for by the laws and other standard legal acts, and in other organizations – in accordance with the procedure set up by collective contract, agreements or local normative acts of organization.

Article 160 Terms of wage payment

Wage is paid at least once in a month. Terms of wage payment shall be established by a collective agreement or local standard acts of organization.

When the day of wage payment coincides with a day-off or a holiday payment is made before that day.

When a labor contract is terminated all amounts due to an employee shall be paid not later than the last working day. If an employee did not work on the day of dismissal, then all the corresponding amounts shall be paid not later than the next day after redundant employee applied in writing for settlement.

If wage payment, leave payment, dismissal payment and other payments are delayed due to the fault of the employer the employer should pay them with percentage (money compensation) at the rate not less than 1/300 of the existing rate of refinancing of the national Bank of the Kyrgyz Republic from non-paid amounts in term for every calendar day of the delay beginning from the next day after fixed payment term till actual payment day. Specific rate of paid money compensation to employee is defined by the collective contract or the labor contract.

Article 161 Payment of wage not received by the date of death of an employee

Wage not paid by the date of death of an employee shall be paid to the members of the family or a person who was dependent on the support of the deceased on the day of his/her death. Wage is paid not later than a week after relevant documents were presented to the employer.

Article 162 Calculation of average wage

There is a single procedure to calculate average wage for all cases provided for by this Code.

While calculating average wage all kinds of payments are taken into account provided for by the system of remuneration and applied in a given organization irrespective of their sources.

Calculation of average wage is made based on actual accrual wage and actual worked off time under any operating conditions.

Average wage is calculated from 12 months preceding the moment of payment. A collective agreement can provide for other periods for calculation, which do not worsen financial position of an employee.

Average day earnings for payment of leaves and compensation for unused leaves are calculated for the last three calendar months by means of dividing the amount of accrued wage by 3 and by 29,6 (average monthly number of calendar days).

Average day earnings for payment of leaves provided in working days in cases provided for by this Code and also for payment of compensation for unused leave are defined by means of dividing the accrued amount of wage by the number of working days in the calendar of six-day working week.

Procedure to calculate average wage established in this article shall be defined by the government of the Kyrgyz Republic.

Article 163 Limitation of money deduction from wages

Deductions from wages can be made only in cases provided for by this Code and other laws.

Irrespective of the consent of an employee deductions are made to pay taxes and social insurance.

The employer can order to make deductions from wage of an employee to pay back in the following cases:

1) to reimburse non-worked out advance, given to an employee on account of wage; to get back excess amounts paid due to calculation error; to clear off unused advance given in relation with a business trip or transfer to another job in another area which was not repaid in proper time; to pay for economic needs if an employee does not dispute the grounds and amount of deduction.

2) to reimburse non-worked out the days of leave when an employee is dismissed before the end of the working year on account of which he/she has already received paid annual leave. Deduction for those days are not made if an employee is dismissed on the reasons indicated in paragraphs 1, 2, sub-paragraph "a" of paragraph 3 and 4 of Article 84, paragraphs 1, 2, 6 and 7 of Article 89 of this Code.

3) to compensate for the damage brought about to the employer through the fault of an employee at an amount not exceeding his/her average monthly wages.

In such cases the employer has the right to take a decision about deductions from wages not later than one month after the date when the time period is finished established to reimburse advance or pay off the debts or from the date when wages were miscalculated, excluding cases established by this Code, under the condition if an employee does not dispute the reason and amount of deduction. After one month deduction can be made only in legal form.

Excessive wages paid to an employee by the employer, also based on erroneous application of law, cannot be collected from him/her, excluding cases of miscalculation.

The employer shall make deductions from wages of an employee for the sake of settlements upon his/her application in writing.

Article 164 Limitation on deductions from wage

Overall amount of all deductions from each wage cannot be higher than 20 per cent, and in cases provided for by the laws – more than 50 per cent of wages owing.

When deductions are made in accordance with several acts of execution an employee shall keep at least 50 per cent of wages.

Limitations set by this article do not apply to deductions from wages when an employee serves his/her sentence, collection of maintenance to children under age, recovery of damage

to a health, recovery of damage to persons who suffered damage due to the loss of a breadwinner and recovery of damage brought about by a crime. In such cases amount of deductions from wage shall not be higher than 70 per cent.

Deductions shall not be allowed from leaving indemnity, compensations and other payments, which according to the law are not subject to deductions.

Article 165 Procedure and place of wage payment

During payment of wages the employer shall inform each employee in writing about components of wages owing for the given period of time, amount and grounds for deductions made and amount owing to be received. Settlement form is approved by the employer.

As a rule wage is paid to an employee in the place where he/she works or is transferred to the bank account indicated by an employee under the conditions defined by a collective agreement or labor contract.

Wage is paid directly to an employee, excluding cases when other way of payment is provided for by the law or a labor contract.

Article 166 1 Remuneration for work in specific conditions

Remuneration of employees' work involved in hard works, works with detrimental, dangerous and other specific labor conditions is made in higher rate.

Higher wages are paid to employees involved in works in areas with special climate conditions.

Article 166 Remuneration for work in areas with special climatic conditions

Higher wages are paid for work in special climatic conditions in accordance with the procedure and in amounts not less than established by laws and other standard legal acts.

Article 167 Remuneration of a director of an organization, deputy directors and chief accountant

Remuneration of directors of organizations, deputy directors and chief accountants in organizations financed from the state budget is paid in accordance with the procedure and in amounts defined by the government of the Kyrgyz Republic.

Terms of payment to directors of organizations, deputy-directors and chief accountant of other organizations are defined upon agreement between parties to a labor contract.

Article 168 Remuneration to employees involved in hard work and work under deleterious and/or dangerous conditions or other special work conditions

Remuneration of employees involved in hard work and work under deleterious and (or) dangerous and other special conditions of work shall be established higher than in wage-rates (salary) established for different types of work under normal working conditions.

A list of hard works, works under deleterious and (or) dangerous, other special working conditions, an order and rate of increasing of wage shall be defined by the Government of the Kyrgyz Republic.

Article 169 1 Remuneration to employees involved in other under conditions other than normal

Upon working in conditions other than normal (implementation of work of different qualification, combination of positions, overtime work, during night, weekends and holidays, work in field conditions, upon traveling and movable character of work and other) employees are paid an appropriate additional payment set up by the collective contracts, labor contracts. Size of additional payment can not be less than set up by the current Code, law and other normative legal acts.

Article 170 Remuneration of a person holding more than one professions (positions) and performing duties of a temporary absent employee

If an employee who with one and the same employer along with his/her basic work provided for by a labor contract performs additional job of different profession, qualifications or position without being relieved of the basic job he/she shall receive additional payment for holding more than one offices (positions) or performance of duties of a temporary absent employee.

Amount of additional payment for combination of positions or performance of duties of a temporary absent employee shall be established by the employer upon agreement with an employee but cannot be less than thirty per cent of the wage-rate established for the combined job.

Article 171 Remuneration of work of different qualification

If an employee who is entitled for time-wage fulfills works with different qualifications his labor shall be paid according to the work with highest qualification.

If an employee who is entitled for piecework payment fulfills works with different qualifications his labor shall be paid according to rates of each work he fulfills.

In cases when considering the character of production, piece-employees are asked to fulfill the work, which is below their category, the employer shall pay for the difference between categories.

Article 172 Remuneration of work at night

Every hour of night work is paid in higher rate but less than 1,5 rate. Higher payment for night work is not included in wage (salary).

Exact amounts of increasing are established by agreements, collective agreement or by the employer after discussion with a representative employees' body.

Article 173 Remuneration of non-fulfillment of working norms

Non-fulfillment of working norms (responsibilities) by fault of employer remuneration is made for actual working hours or fulfilled work, but not less of average wage of employee calculated for the same period of time or for fulfilled work.

Non-fulfillment of working norm by fault other than employee or employer, an employee is paid not less than 2/3 of wage (salary).

Non-fulfillment of working norms by fault other than employee, he/she is paid the part of wage in accordance with volume of fulfilled work.

Article 174 Remuneration for production turned out to be defective

In case of a spoiled production not caused by the fault of an employee, such products are paid equally to good products. Absolute spoilage through the fault of an employee shall not be paid.

Partial spoilage through the fault of an employee is paid according to reduced rates depending on the level of fitness.

Article 175 Remuneration for standstill

Standstill is considered through the fault of the employer if an employee notified the employer in advance in writing about the start of standstill and shall be paid at the rate not less than two thirds of an average wages of an employee.

Standstill caused neither by employer's fault nor by the fault of an employee and if an employee notified the employer in writing about the start of standstill shall be paid at the rate not less than two thirds of a wage rate (salary).

Standstill through the fault of an employee shall not be paid.

Article 176 Remuneration for development of new production (products)

It can be provided for by a collective agreement or a labor contract that for the period of development of new production (products) an employee shall get his/her normal wage.

Article 177 Remuneration for overtime work

First two hours of overtime work are paid at the rate which is not less than 1,5 higher than normal rate, subsequent hours are paid not less than 2 higher than the normal rate. Exact rate of overtime payment can be defined by a collective agreement or by a labor contract. If an employee wants, then instead of higher payment for overtime work he/she shall get compensation in the form of additional rest time but not less than amount of overtime.

Off-hour job when working hours are exceeding normal hours is paid in accordance with working hours or performance.

Article 178 Remuneration for work on days off and holidays

Work on days off and holidays shall be paid not less than double rate of normal wages:

To piece-employees at the rate not less than double normal piecework rate.

To employees who are paid in accordance with daily and all-in hourly rates at the rate not less than double daily or hourly rates.

To employees receiving monthly wages at the rate not less than ordinary daily or hour rate in addition to the wages in cases when the work has been implemented within planned

monthly labor time, and at the rate not less than double hourly or daily rate in addition to normal wages when the work has been implemented in excess of planned monthly rate.

An employee by agreement with the employer may be given another day off for the work on days off or on holidays. In that case work on a day off or on holiday is paid at normal rate and another day off shall not be paid.

Remuneration of labor on days off and on holidays of creative persons from cinema, theatre, concert organizations, circus and other persons involved in creation and/or performance, professional sportsmen in accordance with the list of professions established by the government of the Kyrgyz Republic taking into account opinion of the National Trilateral commission on regulation of social and labor relations can be defined on the basis of a labor agreement, collective agreement or local standard legislative act of an organization.

CHAPTER 14. NORM SETTING

Article 179 General provisions

Employees shall have guarantee for the following;

Government support to the system organization for norm setting;

Application of norm setting systems defined by the employer together with a representative organ of employee or set by a collective agreement.

Article 180 Rate of labor

Rate of labor, i.e., rate of output, time and service, shall be established for the employees in accordance with the current level of technological development, organization of production and labor.

Rate of labor may be reviewed as new technologies appear, new organizational or other activities introduced providing for growth of labor productivity as well as in cases when obsolete equipment is used.

If individual employees achieve high level of production (service rendering) due to the use of new labor techniques and improved working places on their own initiative that could not be the reason for reviewing of labor rates established earlier.

Article 181 Development and approval of standard rates of labor

Standard rates of labor may be developed and fixed for similar works (inter-branch, professional and other).

Standard rates of labor are developed and approved in accordance with the procedure established by the government of the Kyrgyz Republic.

Article 182 Introduction, replacement and reconsideration of labor rates

Local standard acts providing for introduction, change and revision of labor rates shall be accepted by the employer after consultations with representative employees' body.

Employees shall be informed about introduction of new labor rates at least one month before.

Article 183 Guarantee of normal working conditions to perform output rate

The employer shall guarantee conditions so that employees can perform rate of output. Such conditions include:

Working order of a building, construction, machinery, technological rigging and other equipment;

Timely provision of technical and other documentation necessary for work;

Proper quality of materials, instruments, other means and objects required for working performance, timely provision of the above to the employee;

Working conditions complying with the requirements of labor protection and safety of production.

CHAPTER 15. GUARANTEES AND COMPENSATIONS

Article 184 Concept of a guarantee and compensation

Guarantees are ways, means and conditions, which help to ensure realization of the employees' rights in the field of social and labor relations.

Compensations are pecuniary payments established with the purpose to reimburse the employees the expenses related to fulfillment of their labor or other duties provided for by the law.

Article 185 Guarantees and compensations to the employees involved in performing state or social tasks

The employer shall free an employee from work having reserved his place (position) for the time when he performs state or social tasks if in accordance with the law such tasks shall be performed during working hours.

In cases provided for by part one of this article a governmental body or public association which involved an employee in performance of state or social tasks shall pay to the employee compensation during the time period when he/she performs the above tasks in an amount defined by law or any other standard legislative act or a resolution of the relevant public association.

When an employee acts in the interests of society (liquidation of the consequences of damages, natural catastrophes, saving life of people and other) his working place (position) is kept for him during that period as well as average wages.

Article 186 Guarantees for employees sent by the employer to medical examination

During medical examination an employee obliged in accordance with this Code pass such an examination keeps his place of work (post) and average monthly wages.

Article 187 Guarantees and compensations to working donors of blood or blood components

The employer shall release an employee from work on the day when he/she donates blood and its components as well as on the day of related medical examination.

If upon agreement with the employer an employee turns up to work on the day when he/she donated blood and its components (excluding laborious tasks and work under deleterious and/or risky conditions when it is impossible for an employee to come to work on that day), he/she shall have another day off ad liberum.

If an employee donated blood and its components during his/her annual paid leave, on a day off or on holiday he/she shall have another day off ad liberum.

After each day of donation of blood and its components an employee shall have an additional day off. The above day off ad liberum of an employee can be annexed to an annual paid leave or used some other time within a calendar year after the day of donation.

In case of a gratuitous donation of blood and its components the employer guarantees for an employee average wages for the days of donation and days off granted for the donation.

Article 188. Guarantees for employees sent for upgrading of their skills and retraining.

If the employer sends an employee for upgrading his/her professional skills or retraining and releases him/her from work she/he shall reserve his/her job (position) and average wages paid at the main working place.

If the employer sends an employee for upgrading his/her professional skills and releases him/her from work she/he shall reserve his/her job (position) and average wages paid at the main working place.

Employees sent for upgrading their professional skills to another area and released from their work shall receive travel allowance in accordance with the procedure and in an amount provided for persons sent on business trip.

Article 189 Guarantees to the director of an organization, deputy-directors and chief accountant when a labor contract is dissolved as a result of change of proprietor of the organization

If resulting from change of ownership of an organization the new employer cancels labor contracts with the director of an organization, deputy-directors and chief accountant, he/she shall pay the above employees compensation at the rate established by agreement between the two parties of the labor contract but not lower than average monthly rate of wages of the employee.

Article 190 Guarantees to employees discharged due to conscription to military service of fixed period or alternative service

An employee discharged due to conscription to military service of fixed period or alternative service after end of the period has advantage during employment in the organization from which he was called out.

Article 191. Business trip

A business trip is a trip of an employee for a certain period of time upon the order of the employer to perform business mission outside place of regular work. Business trips of those employees whose regular work is related to traveling shall not be considered as business trips.

Article 192. Guarantees in connection with sending employees on business trips

When an employee is sent to a business trip he/she is guaranteed reservation of job (position) and average wages as well as reimbursement of expenses related to the business trip.

Article 193. Reimbursement of expenses related to business trip.

If an employee is sent on a mission, the employer shall reimburse to the employee the following expenses:

Travel expenses;

Renting accommodation;

Additional expenses related to residence away from permanent residence (daily allowance);

Other expenses made by an employee approved by the employer.

Procedure and amount of reimbursed expenses related to business trip are defined by a collective agreement or local standard legislative act of an organization. The rate of reimbursement shall not be lower than the rate established by the government of the Kyrgyz Republic for the organizations financed from the state budget.

Article 194. Reimbursement of expenses related to moving to work in another locality

When an employee upon prior agreement with the employer is moving to work to another locality, the employer shall reimburse the following expenses to the employee:

- travel expenses of an employee, members of the family and transport of belongings (excluding cases when the employer provides suitable transport means to an employee);

- expenses related to development of a new place of residence.

Exact amount of reimbursed expenses shall be defined by agreement between the parties to a labor contract but not lower than the amounts established by the government of the Kyrgyz Republic for organizations financed from the federal budget.

Article 195 Guarantees for employees performing tasks in the interest of all employees in the organization

Conditions of release an employee from work so that he/she can perform tasks in the interests of all employees of the organization as well as amount of compensation for that period of time shall be established by this Code, collective agreement or the employer upon agreement with a representative employees' body.

Article 196. Reimbursement of expenses in connection with the use of private property of an employee

When an employee upon agreement with the employer and in the interests of the employer is using his/her private property, the employee is paid compensation for the use, wear and tear (depreciation) of the instruments, private transport, equipment and other technical facilities and material pertaining to the employee and expenses related to their use are reimbursed. Reimbursed amount is defined by a written agreement between the parties, for governmental organizations according to the procedure defined by the government of the Kyrgyz Republic.

Article 197 Guarantee to an employee during temporary incapacity for work

During temporary incapacity for work the employer shall pay to an employee temporary incapacity allowance in accordance with the law and other standard legal acts.

Size of the allowance and terms of payment shall be established by the government of the Kyrgyz Republic.

PART V. TRAINING AND RETRAINING OF EMPLOYEES.

CHAPTER 16. GENERAL PROVISIONS

Article 198 Rights and liabilities of the employer for training and retraining of employees

The employer identifies the necessity for professional training and retraining of employees for his/her own needs.

The employer shall organize inside organization skills professional training, retraining and training for the second profession and if necessary in educational institutions of elementary, secondary and higher vocational training under the terms and according the procedure defined in the collective agreement, contracts and labor contract.

Forms of professional training and retraining of staff, list of professions and skills shall be defined by the employer.

In cases provided for by the laws and other standard legal acts, the employer shall be responsible for upgrading of skills of the employees if such an upgrading conditions for the employees certain types of activity.

The employer shall provide all the necessary conditions for the employees who combine work with professional training and retraining and guarantees established by this Code, other standard legal acts, a collective agreement, other agreements and labor contract.

Article 199. The right of employees to skills training and upgrading

Employees have the right to skills training including training in new professions, skills as well as to upgrading of skills.

That right is realized by means of concluding an additional contract between employees and the employer.

Article 200. Contract of apprenticeship

The employer has the right to conclude a contract of apprenticeship with a person seeking employment for skills training and with an employee of a given organization a contract of apprenticeship for on the job retraining.

A contract of apprenticeship with a person seeking employment is regulated by civil law and other acts, containing legal regulations. Contract of apprenticeship with an employee of a given organization is an additional to the labor contract and is regulated by labor law and other acts containing regulations of labor contract.

Article 201. Content of an of apprenticeship contract

Contract of apprenticeship shall contain the following:

- name of parties;
- indication to an actual profession, skills, qualification obtained by a student;
- obligation of the employer to ensure for an employee conditions for training in accordance with a contract of apprenticeship;
- obligation of an employee to get trained and in accordance with the profession, skills or qualification obtained work based on labor contract with the employer within a period of time established in the contract of apprenticeship;
- period of training;
- rate of payment during the period of training.

Contract of apprenticeship can contain other terms defined by agreement between the parties.

Article 202. Period and form of a contract of apprenticeship

Apprenticeship contract is concluded for a period of time required for training in a given profession, skills or qualifications.

Apprenticeship contract is concluded in two copies in writing.

Article 203. Validity of an apprenticeship contract

An apprenticeship contract becomes valid from the date indicated in the contract and within a period of time stipulated by the contract.

An apprenticeship contract is extended for the time period when a student becomes ill, takes part in periodical military training and in other cases provided for by the laws and other standard legal acts.

During the period of validity of an apprenticeship contract, its content can be changed only upon agreement between the parties.

Article 204. Organizational forms of apprenticeship

Apprenticeship is organized in the form of individual, team, course and other training.

Article 205. Time of apprenticeship

Time of apprenticeship during a week shall not be longer than working hours planned for the employees of respective age, profession, skills required for implementation of corresponding labor.

Employees who are trained within organization upon agreement with the employer can be completely relieved from work in accordance with a labor contract or implement the work under the conditions of part-time work.

During the period of validity of an apprenticeship contract the employees cannot be involved in overtime work, sent to business trips not related to apprenticeship.

Article 206. Payment of apprenticeship

During apprenticeship people receive scholarship, the amount of which is defined by an apprenticeship contract and depends on the would-be profession, qualifications or skills but it cannot be less than minimum remuneration established by law.

Work performed by an apprentice during practical training is paid in accordance with established base-rate.

Article 207. Application of labor legislation to apprentices

Labor legislation is applied to the apprentices, including legislation on protection of labor.

Article 208. Invalidity of terms of apprenticeship contract

Those terms of apprenticeship contract which do not comply with this Code, collective agreement and other agreements are invalid and do not apply.

Article 209. Rights and obligations of apprentices upon completion of apprenticeship

Persons who successfully completed apprenticeship when they conclude a labor contract with the employer according to the agreement made before apprenticeship probation period is not fixed.

If an apprentice upon completion of apprenticeship does not perform his/her duties under the contract without good reason, i.e., does not start working, he/she upon request of the employer shall repay scholarship received during training as well as reimburses other expenses incurred by the employer in connection with the apprenticeship.

Article 210. Grounds to cancel an apprenticeship contract

An apprenticeship contract is cancelled on the grounds provided for cancellation of a labor contract.

PART VI. PROTECTION OF LABOR
CHAPTER 17. PROTECTION OF LABOR

Article 211. Main terms

Protection of labor: a system of preservation of life and health of the employees during a process of labor activity which include legal, social-economic, organizational and technical, sanitary and hygienic, therapeutical-prophylactic, rehabilitation and other activities.

Safe conditions of work: conditions of work which either exclude the influence of deleterious or dangerous industrial factors over the employees or the level of their influence does not exceed established standards.

Place of work: where an employee shall work or where he shall come in connection with his/her work and which is directly or indirectly controlled by the employer.

Individual and collective protection facilities: means provided to prevent or reduce the influence of deleterious or dangerous industrial factors over the employees and also to protect from contamination (working shoes, working clothes, dielectric gloves and instruments, protective belt, goggles etc.)

Deleterious conditions of work: conditions characterized by availability of deleterious industrial factors, exceeding hygienic standards and negatively influencing health of employees.

Industrial activity: all the activities of employees using means of labor required to turn resources into finished commodity, including production and processing of various kinds of raw materials, building and provision of various services.

Article 212. State regulations for protection of labor

State regulations for protection of labor (hereinafter, requirements of labor protection), contained in laws and other standard legal acts establish rules, procedures and criteria directed to preservation of life and health of an employee during the process of labor activity.

Procedure to develop and approve standard acts on labor protection (inter-sectoral and sectoral regulations and standard instructions on labor protection, building codes, sanitary standards and regulations, rules and instructions on safety, rules of arrangement and correct operation, code of regulations on design and construction, hygienic standards and state standards on safety), as well as terms of their review shall be established by the government of the Kyrgyz Republic.

Article 213. Obligations of the employer to ensure protection of labor

The employer is entrusted with a responsibility at his/her expense create for the employees healthy and safe working conditions and ensure that they observe requirements of labor protection.

The employer shall ensure:

- safety of employees during maintenance of buildings, constructions and equipment and implementation of technological processes as well as during production of raw materials;

- employees' use of individual and collective protection facilities;
- adequate working conditions at every place of work;
- development and approval of instructions on protection of labor of employees;
- scheme of work and rest of the employees in accordance with the legislation of the Kyrgyz Republic;
- free distribution of working clothes, working shoes and other means of individual protection, washing off and neutralization agents to employees in accordance with the established quotas;
- training, briefing and testing knowledge of employees in regulations on labor protection, non-admission to work of persons who were not trained, tested and briefed in requirements of labor protection;
- controlling conditions on work places as well as observance of requirements of labor protection by the employees;
- certification of conditions of work at work places;
- conduct of obligatory preliminary (before employment) and regular medical examinations and special medical checkups (examinations) of employees;
- non-admission of employees to implement their duties if they did not pass obligatory medical examination and also if they have contra-indications for such work;
- informing employees about labor conditions and labor protection at work places, about risk of health injury and compensations payable to them and means of individual protection, compensations and facilities related to work conditions;
- undertaking of measures aimed to prevent emergency conditions, to preserve life and health of employees under such conditions including first aid to victims;
- investigating of industrial accidents and industrial diseases in accordance with the procedure established by the government of the Kyrgyz Republic;
- sanitary and therapeutic-prophylactic servicing of employees;
- obligatory social insurance of employees against industrial accidents and industrial diseases;
- familiarization of employees with the requirements of labor protection;
- recovery of damage brought about to the health or life of employees;
- provision all the necessary financial resources in order to improve labor conditions in accordance with the requirements of labor protection;
- provision to the employees benefits and compensations in cases provided for by the legislation for the work under deleterious and hard conditions (pension indicated in List

No2,shortened working hours, higher payment, additional leave, milk or equally useful food products etc..)

-free access to organization for representatives of the relevant bodies responsible for investigation of industrial accidents and industrial diseases and control of activities in the field of prevention of industrial injuries and breakdowns, provision all the information on labor protection to such representatives in accordance with the legislation.

Article 214. Responsibilities of an employee in the field of labor protection

An employee shall:

- observe the established requirements of the rules, regulations and instructions on labor protection;
- apply correctly means of individual and collective protection;
- to receive training, briefing and testing of knowledge of requirements of labor protection;
- to inform immediate supervisor or a manager about any situation threatening health and life of people, about every industrial accident or about deterioration of one's health;
- to pass obligatory preliminary (prior employment) and regular medical examinations.

Article 215. Compliance of producing facilities and products with requirements of labor protection.

Projects of construction and reconstruction of producing facilities, as well as machinery, mechanisms and other producing equipment and technological processes shall comply with the requirements of labor protection.

Construction, reconstruction, technical re-equipment of producing facilities, production and introduction of new machinery and new technologies are forbidden without decision of the relevant bodies of state surveillance and control over observance of requirements of labor protection about compliance of the project documents with the requirements of labor protection.

New or reconstructed producing facilities shall not be accepted for operation without decision of the relevant bodies of the state surveillance and control over observance of requirements of labor protection.

It is forbidden to use in production deleterious or dangerous substances, materials, products, goods and providing services for which there are no developed methodology and means of metrological control and toxicological (sanitary-hygienic, medical and biological) evaluation of which was not made.

If the employer is making use of new deleterious or dangerous substances, not used in the organization before the employer shall prior use of such substances develop and get

approved by the relevant bodies of the state surveillance and control over observance of the requirements of labor protection measures aimed to preserve life and health of the employees.

Machinery and other producing equipment, transport means, technological processes, materials, chemical substances, means of individual and collective protection of employees, including those produced by foreign manufacturers, shall comply with the requirements of labor protection established in the Kyrgyz Republic.

Article 216. Supply of means of individual protection and hygiene.

While working under deleterious or dangerous conditions as well as working under specific temperature conditions or related to contamination employees shall be given working clothes, working shoes and other means of individual protection, soap, washing off and neutralizing agents in accordance with the standards and rules approved according to the procedure defined by the government of the Kyrgyz Republic.

It is responsibility of the employer to purchase, keep, wash, repair, disinfect and neutralize means of individual protection and hygiene of employees.

Article 217. Guarantee of the employee's right to labor protection

Terms of a labor contract shall comply with the requirements of labor protection. A labor contract shall indicate reliable characteristics of work conditions, compensations and benefits due to the employees for hard work and work under deleterious and dangerous conditions.

When operation of a factory (its unit) or a work place is temporary stopped as a result of violation of requirements of labor protection without any fault of an employee he/she shall retain work place, post and average wage-rate.

When an employee is not provided with means of individual and collective protection in accordance with the standards and terms of work the employer shall not require from an employee implementation of his/her duties.

An employee shall have the right to refuse to work, which is evidently threatening his/her life or health because of requirements of labor protection simultaneously reporting the relevant person about that.

Refusal to work under conditions presenting immediate danger to his/her life or health or to perform hard work or work with deleterious or dangerous conditions not provided for by a labor contract and also if he/she is not provided with means of individual protection shall not result in any fatal consequences. During the period when such a danger is being eliminated an employee retain his/her average wages.

Other guarantees of the employees' rights to labor protection, types of compensation and benefits for work under deleterious or dangerous conditions as well as procedure and terms are established by this Code, laws and other standard legal acts and labor contracts.

If standard acts do not contain requirements of labor protection necessary for certain type of work, the employer shall take measures to ensure safe working conditions.

Article 218. Training and briefing in labor protection

All the employees of organizations, including the employer shall undertake training and testing of their knowledge in labor protection in accordance with the procedure established by the government of the Kyrgyz Republic.

The employer shall organize briefing on labor protection for newly employed employees and for employees moved to another job, organize training in safe ways of implementing jobs and first aid techniques for victims of accidents.

Preliminary training on labor protection with exams and subsequent regular retraining shall be organized for employees to be employed by a factory with high risk or where professional selection is required.

It is forbidden to admit to work those employees who did not pass prescribed training, briefing and tests of knowledge on labor protection.

Article 219. Sanitary and health care

Depending on the type of activity of an organization and taking into account the needs of the employees the employer shall provide the employees with potable water and organize meals, organize sanitary rooms: checkroom, public conveniences, shower rooms, rooms for taking meals, restrooms, rooms of private hygiene for women, first aid points in case of an accident or illness. Those who work in hot workshops or areas shall be provided with aerated salt water.

The employer shall organize corresponding services and health care units (medical and sanitary unit, hospital etc.) in accordance with the procedure established by law.

Article 220 Limitations on hard work and work under deleterious and dangerous conditions

It is forbidden to use the labor of women and persons under eighteen years of age at hard work and work under deleterious and dangerous conditions as well as persons for whom the above work is not recommended on account of bad health.

A list of hard work and work under deleterious and dangerous conditions for which it is forbidden to use the labor of women and persons under eighteen years of age is approved by the government of the Kyrgyz Republic.

Article 221 Distribution of milk and food

Employees who work under deleterious conditions shall receive free milk and other equivalent food products in accordance with the established quotas.

Employees who work in especially deleterious conditions shall receive free therapeutic and prophylactic meals in accordance with the established quotas.

Quotas and rules to distribute milk and other equivalent food products shall be established in accordance with the procedure defined by the government of the Kyrgyz Republic.

Article 222 Intervals included in work time

Employees who work outdoors during cold period of a year or in enclosed non-heated space, loaders involved in handling as well as other categories of employees in cases provided for by the legislation and a collective contract shall have a special intervals for warming and rest and such interval are included in working time.

The employer shall arrange a room for warming and rest of the employees.

Article 223 Medical inspections of certain category of employees

Employees who do hard work, who work in mountains and under detrimental or dangerous conditions (including underground works), whose work is connected to moving transport and who work by shifts shall have medical examination before employment, special and periodical medical examinations (checkups) to determine whether they are fit for their work and to prevent industrial diseases.

Employees in the enterprises of food and processing industry, catering industry and trade, water supply, medical treatment and children's institutions as well as several other enterprises, institutions and organizations shall have the above medical examinations so that to protect health of the people.

Obligatory periodical medical examinations and special medical checkups shall be held during work time, average remuneration sustained.

List of deleterious industrial factors and kind of works, positions and professions execution of which require medical examinations and rules shall be established by an authorized health care body upon agreement with an authorized state body in the field of labor.

Article 224 Transportation of employees who got sick at work to a clinic

Employees who became sick at work or who became victims to an industrial accident shall be delivered to a clinic or other institutions by transport means of the employer or at his/her expense.

Article 225 Labor protection service

In order to ensure observation of requirements of labor protection, control of their implementation every industrial organization with a number of employees more than 50 shall establish labor protection service or introduce a post of an expert on labor protection with adequate training or experience in such a field.

In organizations with 50 or less employees the employer makes a decision about creation of labor protection service or introduction of a post of an expert on labor protection taking into account specific activity of a given organization.

If such a labor protection service (expert on labor protection) does not exist in an organization the employer makes a contract with the relevant experts or with organizations rendering services in the field of labor protection.

The employer defines structure of labor protection service in an organization and the number of employees in the labor protection service depending on the total number of employees, severity of risk and detrimental effects of production, remoteness of the production area in accordance with the standards established by the state body in the field of labor.

Regulations about labor protection service are approved by the government of the Kyrgyz Republic or by an authorized agency.

Article 226 Investigation and registration of industrial injuries and industrial diseases

Industrial injuries and industrial diseases are investigated and registered in accordance with the procedure defined by the government of the Kyrgyz Republic.

The employer together with the representatives of trade union or any other representative body of the employees of the organization and in statutory cases together with representatives of specially authorized bodies and other interested persons shall in good time and properly carry out investigation and registration of industrial accidents, industrial diseases, take necessary measures to eliminate the reasons, provide material and other support to a victim and members of the family of the deceased.

The employer shall report immediately about team accident, severe accident or accident with death to the State labor inspection and other relevant bodies.

Seriousness of an injury shall be determined based on medical certificate, which is issued within a day by a therapeutic and prophylactic medical institution upon request of the employer or state surveillance body.

A person empowered to act for a victim and in case of death of a victim a person empowered by his relatives has the right to participate in investigation of an industrial accident or industrial disease. If such a person does not participate in investigation, then the employer or chair of the commission upon request of that person shall familiarize him/her with the investigation documents.

A standard report is made based on the results of investigation of an industrial accident or industrial disease. One copy of the report the employer or chair of the commission shall give on receipt to a victim or relatives of the deceased or a person empowered by them.

A conclusion of the commission that slight accident is not related to works shall be approved by the relevant body of the state surveillance or technical labor inspection of trade unions.

If the employer refused to make an investigation, make a H-1 report about accident or about industrial disease or if a victim, relatives of the deceased or persons empowered to act for them disapprove of the content of the report they have the right to apply to the bodies of the state labor inspection, state sanitary and epidemiological service or to court.

Article 227 Subsidies and compensations for conditions of work

For hard work and work under detrimental or dangerous conditions the employees get subsidies and compensations (long-service pension according to List No2, supplement to salary/wages, shortened working day, additional leave, free milk etc.). Procedure and terms for granting and cancellation of the above is established by the government of the Kyrgyz Republic.

Upon agreement with a representative employees' body the employer can cancel or reduce compensations and subsidies resulting from improved conditions of work based on certification of positions or instrumental measurements of parameters of industrial environment. When deciding about subsidized pensions an additional decision is required of the relevant bodies of the state surveillance and control.

The employer has the right to provide from own resources additional subsidies and compensations to the employees for the influence of dangerous or detrimental industrial factors other than provided for by the law.

CHAPTER 18. RESPONSIBILITY OF THE EMPLOYER FOR THE DAMAGE CAUSED BY INJURY, OCCUPATIONAL DISEASE OR ANY OTHER DAMAGE BROUGHT ABOUT TO AN EMPLOYEE WHILE HE FULFILLS HIS DUTIES

Article 228 Responsibility of the employer for the damage brought about to the health of an employee

The employer is responsible for the damage brought about to an employee in connection with injury, professional disease or any other damage to the health which an employee received when he/she fulfilled his/her duties (hereinafter industrial injury) both on the territory of the employer and outside it as well as when he/she was on the way to working place or from the working place home using transport facilities provided by the employer.

Article 229 Grounds for responsibility of the employer for the damage brought about to the health of an employee due to industrial injury

The employer shall undo in full volume the damage brought about to the health of an employee while he/she fulfilled his/her duties from a source of great danger if the employer fails to prove that the damage was caused by insuperable power or by intention of a victim.

If the damage was brought about not by a source of high risk then the employer is free from responsibility if he/she proves that the damage was caused not by his/her fault.

The employer shall reimburse damage brought about to an employee who fulfilled his/her duties through the fault of outsiders (physical and legal persons) with subsequent regress to a person who is guilty in accordance with the procedure provided for by the law.

Article 230 Fault of the employer

Industrial injury is considered to have taken place through the fault of the employer if the injury took place because the employer did not ensure healthy and safe conditions of work, failing to execute the requirements of protection of labor.

Article 231 Proof of responsibility of the employer for the damage

The following documents prove responsibility of the employer for the damage and in cases provided for by Article 230 of this Code prove his/her fault:

- industrial injury report (industrial decease report)
- report of the commission on investigation of industrial injury
- verdict, judgment, resolution of a public prosecutor, inquiry agency or preliminary investigation
- opinion of the state inquiry and control office or technical inspection of labor of trade union about the reasons of health injury;
- resolution to impose on officials an administrative or disciplinary penalty
- medical certificate about industrial disease
- evidence of witnesses
- other documents

Article 232 Responsibility of the employer-owner of an aircraft

In case of an industrial injury of one of the crew of an aircraft which took place in connection with fulfillment of duties during steering, take-off, flying or landing, the employer who owns the aircraft by law of property or any other legal ground responds for the injury caused if he/she does not prove that the injury took place due to intent of a victim.

Article 233. Mixed responsibility

If a blunder of a victim contributed to the appearance of an injury or increased the injury then the amount of compensation is reduced in accordance with the severity of fault of a victim.

In case of a blunder of a victim and lack of employer's fault in the cases when the employer becomes responsible irrespective of his/her fault (article 229, part one), the amount of indemnity is also reduced accordingly. Total refusal to reimburse the damage is not acceptable.

Resolution of a commission on investigation of industrial injuries on severity of the victim's fault with his/her severe carelessness can be appealed in the state labor inspection or in court.

Mixed responsibility is not applied during temporary transfer to another work, reimbursement of additional expenses as well as during reimbursement of burial expenses, reimbursement of lost earnings due to the death of a breadwinner.

Article 234 Kinds of indemnity

Indemnity to a victim includes:

- 1) reimbursement of lost earnings (or corresponding share);
- 2) reimbursement of additional expenses;
- 3) one-off benefit payment;
- 4) compensation of moral damage;
- 5) compensation of burial expenses.

Article 235 Examination of capacity to work

Severity of disability due to industrial injury and category of invalidity are defined by medical-social commission of experts (MSCE) based on the results of examination of a victim.

Procedure to determine severity of disability as a result of industrial damage is established by the government of the Kyrgyz Republic.

Examination in MSCE is made after application of the employer, state labor inspection, therapeutic and prophylactic institution or a court, or a victim or his/her representative who present a report on industrial injury (industrial disease) or any other document certifying injury caused by fulfillment of duties.

Re-examination of a victim is made ahead of time upon his/her application or on request of the employer.

If a victim or other interested persons disapprove of MSCE resolution they have the right to appeal against decision in the agencies higher than MSCE or in court.

Article 236 Increase of amount of compensation for industrial injury

Workmen's compensation, reimbursement of additional expenses and lump-sum benefit can be increased upon agreement between the parties or based on collective contract or agreement.

Article 237 Increase of amount of compensation for industrial injury as a result of higher subsistence level and increased minimum amount of salary/wages

Amounts of compensation are subject to indexing due to higher subsistence level in accordance with the procedure established by law.

When minimum earnings are increased by administrative order all the amounts of damages are increased with increase of minimum amount of salary/wages.

When total earnings are determined in order to calculate first amount of indemnity, the amounts included in the total earnings are indexed by means of correction factors fixed by the legislation of the Kyrgyz Republic for calculation of earnings for granting pensions.

Article 238 Rate of recovery of earnings to a victim

The rate of damages to a victim is determined based on his/her average monthly earnings and severity of industrial injury established for his/her case.

Pension for incapacity granted for a victim due to industrial injury, as well as other kind of pension granted both before and after industrial injury as well as earnings which a victim received after injury are not taken into account when calculating damages.

Article 239 Composition of earnings used for calculation of damages

Lost earnings based on which the rate of damages is calculated include all kind of payments for work including payment for overtime work, work during weekend and on holidays as well as combination of jobs.

Lump-sum payments are not taken into account, in particular compensation for unused leave and leaving indemnity at dismissal.

Allowance paid during short-term incapacity and maternity leave is taken into account.

Author's emolument is included in lost earnings.

Scholarship paid during education is considered (if an applicant wishes so) as earnings.

All kinds of earnings are taken into account in amounts calculated before deduction of taxes and other obligatory payments.

Article 240 Periods of time during which average monthly earnings are defined

Average monthly earning is defined for the last 12 months of work (service) prior an industrial injury or loss or reduced ability to work due to industrial injury (at the choice of a citizen). In case of an industrial disease average earning can be defined also for the last 12 months of work prior stoppage of work, which resulted in such a disease.

From the months used to calculate average monthly earnings a person might want to exclude the following:

1) not full months of work due to start or stoppage later than the first day of that month;

2) months (including not full ones) when a person was leave for mothers with small children as well as period of work when a person was disabled or received compensation for damages due to industrial injury, looked after an invalid of first category, disabled child under 18 years old or a person who according to opinion of MSCE needs aid.

30 months (including not full ones) of unpaid leave or of leave with partial payment which is provided at the initiative of the employer in case of temporary cessation of works.

Excluded months are substituted by earlier months or totally excluded from calculations in case of failure to substitute them.

Article 241 Procedure to calculate average monthly earning

Average monthly earnings for the period of time indicated in Article 240 of this Code is calculated by means of dividing gross earning for 12 months of work (service) by 12.

If the work lasted less than twelve months , then average monthly earnings are calculated by means of dividing of the overall amount of earnings during actual working time by the number of the months.

In cases when period of work is less than one calendar month, then the amount of compensation is calculated based on representative monthly earnings defined as follows: earnings for overall working time is divided by the number of working days and the resulting amount is multiplied by the average number of working days in a year.

If it is impossible to get the documents about actual earnings, the amount of compensation is calculated based on fivefold minimum earnings.

In case when average monthly earnings is not higher than fivefold minimum earnings, the amount of compensation is calculated based on fivefold minimum earnings.

If before mutilation or other injury the earnings of a victim changed for the better (increased salary for the position, he/she was promoted to a highly paid job and in other cases when the sustainability of the change is proven or a possibility of changing remuneration of a victim), then during calculation of average monthly earnings only earnings are taken into account which he/she received or was expecting to receive.

Article 242 Size of compensation in case of repeated industrial injury

In case of repeated industrial injury average monthly earnings ad liberum of a victim is calculated for the corresponding period of time prior the first or the second industrial injury.

If industrial injuries took place during work with one and the same employer, then amount of compensation is calculated based on overall loss of ability to work caused by the first and second injuries together.

If industrial injuries took place with different employers, then each of the employers calculates the amount of compensation separately based on the percent of loss of ability to work in accordance with corresponding industrial injury.

Article 243 Calculation of earnings for persons who worked abroad

Average monthly earnings for people who worked abroad are calculated as prescribed.

The amount of compensation to the employees sent to in accordance with established procedure to work in institutions and organizations of the Kyrgyz Republic abroad or in international organizations is calculated based on average monthly earnings of employees of similar profession and qualification in the Kyrgyz Republic as per date when the compensation was granted.

Article 244 Calculation of earnings for persons in the course of industrial training

Average monthly earnings for persons who got industrial injury during on-the job training (practical work) is calculated as prescribed. Scholarship paid during training is considered as earnings.

If a victim wants, average monthly earnings can be calculated during the period of work, which preceded the industrial training.

Article 245 Compensation during temporary transfer to another work due to industrial injury

Remuneration of labor of a victim temporary transferred on his/her consent to do simple and less paid work, is made till the moment of recovery of ability to work or establishment of long-term or permanent total disablement in an amount not less than average monthly earnings he/she had before industrial injury.

Therapeutic and prophylactic medical institution gives an opinion about necessary transfer of a victim to another work, duration (within one year) and pattern of recommended work.

If the employer fails to provide relevant work to a victim within a certain period of time, a victim received average monthly salary/wages, which he/she got before industrial injury.

In that case average monthly earnings got on previous job as well as in case **indicated** in Article 246 of this Code is calculated for two months preceding the month when an industrial injury took place in accordance with the procedure established by the legislation.

Article 246 Compensation during training in new profession

The employer at his/her own expense on consent of a victim shall provide to a victim training in new profession in accordance with opinion of a therapeutic and prophylactic medical institution or MSEC if due to industrial injury he/she cannot perform his/her previous job.

During training in new profession a victim gets average monthly salary/wages he/she got on previous job. During that period compensation is paid as prescribed.

Article 247 Kinds of additional expenses

Besides reimbursement of the lost earnings the employer responsible for injury shall compensate additional expenses caused by industrial injury.

Additional expenses are the following: expenses for additional food, medicines, prosthesis, nursing, including nursing by the family members and outsider, sanatoria and health resort treatment, including return ticket to the place of treatment and back and if necessary with an accompanying person, purchase of special transport means and fuel, thorough repairs of the car and other expenses, if a victim did not get them for free from the relevant organizations on other grounds provided for by the legislation.

Invalids of the first category do not need opinion of MSEC that they need nursing (apart from cases when they need special medical treatment).

A victim, who needs several kinds of aid, gets reimbursed the expenses related to each kind of the aid.

Additional expenses provided for in part two of this article are made in accordance with the opinion of MSEC or a therapeutic and prophylactic institution that a victim needs such expenses. Such expenses are paid in accordance with the procedure determined by the government of the Kyrgyz Republic.

Article 248 Size of additional expenses

Size of additional expenses is defined based on receipts, bills, recipes of the relevant organizations and other documents or according to the prices in the area where a victim made the expenses.

Expenses of the victims who according to opinion of MSEC need special nursing are fixed at the level of five and in case of external nursing two minimum salaries and are reimbursed every month irrespective of who makes the nursing.

Expenses for purchase of transport means and thorough repairs within an established period of

Maintenance is made according to their costs.

Article 249 Additional leave for medical treatment due to damaged health and payment of the leave

If there is an opinion of MSEC or that of a therapeutic and prophylactic institution that a victim needs sanatoria and health resort treatment he/she is given a paid leave for medical treatment besides annual leave.

Payment of damages during leave for medical treatment is made in accordance with general procedure.

Expenses for tickets for a victim and also for an accompanying person are defined in accordance with the law on business trips.

Article 250 Lump-sum benefits to a victim

Besides compensation for the lost earnings and additional kinds of compensations the employer pays to a victim a lump-sum benefit.

The size of the lump-sum benefit is determined in accordance with the severity of disability based on ten average annual earnings of a victim, but not less than 2-year subsistence level established for the given area (on the date of payment).

Article 251 Responsibility of the employer to undo moral damage to a victim

The employer shall undo moral damages (physical and moral suffering) to the victim who got industrial injury.

Moral damages are paid in pecuniary or other material form irrespective of other forms of damage subject to indemnity, its rate being defined by court or upon agreement between the employer and a victim.

Article 252 Person entitled to damages in case of the death of a victim (breadwinner)

In case of death of a victim (breadwinner) the following persons have the right to damages:

1) disabled persons who were dependent on the deceased or who by the date of his/her death had the right to get support from the deceased;

2) an after-born child of the deceased;

3) one of the parents, spouse or any other member of the family irrespective of his/her capacity to work who is not working and looks after the children, grandchildren, brothers and sisters of the deceased under fourteen years of age or although of the age but according to the opinion of doctors their health needs constant care;

4) persons who were dependent on support of the deceased and who became disabled within ten years after his/her death;

Disabled are persons under 18 years old and also at the age of 18 and older if they are educated in internal higher educational institutions but not older than 23, persons who are acknowledged as invalids in accordance with the established procedure, men of 60 and women of 55 years old.

Disabled dependents of the deceased have the right for damages irrespective of the fact whether they are family or not. That right of dependents is not forfeited even if there are people who are obliged to support them according to the law.

Disabled persons who during lifetime of the deceased had earnings or received pension or any other similar payments are considered as his/her dependents if the latter provided the main and permanent resources to them.

Dependence of children under age is assumed and does not require proof.

One of the parents, a spouse or any other family member who is not working and looks after children, grandchildren, brothers or sisters of the deceased and who became disabled while looking after them pertains the right to damages after he stops looking after the above persons.

Among persons who were not dependent on the support of a breadwinner but by the date of his death were entitled for such a support are disabled persons indicated in the Family Code.

Article 253 Damages in case of death of a victim (bread-winner)

Damages to persons dependent on the deceased for support and entitled to damages in connection with his/her death are defined in the amount of average monthly earnings of the deceased less his/her share.

To define the amount of damages to each of the persons entitled to such damages the share of earnings of the breadwinner falling to all those persons is divided by the number of those persons.

The amount of damages to disabled persons who were not dependent on the deceased but who are entitled to damages is defined as follows: if the resources of support were collected based on a court judgment then damage is defined in an amount established by court; if the resources for support were not collected on the basis of court judgment then the amount of damage is established taking into account financial position of disabled persons and a possibility of the deceased to provide them support during his/her lifetime.

If several people are entitled to damages, both who were dependent on the deceased and those who were not dependent, then first the amount of damages is defined for persons not dependent on the support of the deceased. The amount of damages established for them is excluded from the earnings of the breadwinner. Then, the amount of damages is defined for dependent persons based on remaining amount of earnings according to the procedure provided for in part one and two of this article.

When damages due to loss of breadwinner is defined the earnings of the deceased includes pension, which he received during lifetime, perpetual support and other payments of the kind.

Pensions granted to the survivors due to the loss of a breadwinner as well as other kind of pensions granted both before and after the death of a breadwinner as well as salary/wages and other earnings received by those persons are not taken into account while calculating damages due to the loss of a breadwinner.

Article 254 Revaluation of damage payments due to the death of a breadwinner

A share of earnings of the breadwinner established to each of those persons entitled to damages in connection with the death of the breadwinner as per Article 253 of this Code is not subject to re-calculations except in the following cases:

- 1) birth of a posthumous child;
- 2) granting or stoppage of payment to persons who take care after children, grandchildren, brothers and sisters of the deceased bread winner;
- 3) granting payment of damages to persons who were dependent on the support of the deceased and who became disabled within ten years after his/her death.

Article 255 Lump-sum benefits in connection with death of a victim (bread-winner)

The employer pays to persons entitled as per Article 252 of this Code to damages in connection with death of a breadwinner a lump-sum benefit based on twenty average annual earnings of a victim. The benefit rate shall not be less than 4-year subsistence level established for the given area (on the date of payment).

Article 256 Obligation of the employer to undo moral damages in connection with the death of an employee

The employer shall undo moral damages to the parents, husband (wife), and children of an employee who died in connection with industrial injury.

Moral damages are paid in pecuniary or other material form irrespective of other forms of damage subject to indemnity, its rate being defined by court or upon agreement between the employer and persons indicated in the first part of this article.

Article 257 Application to the employer

An application about damages is submitted to the employer who is responsible for the damage caused by industrial injury irrespective when it took place.

The employer shall assist an applicant in getting the documents necessary to submit a claim of damages and if necessary to request such documents from other organizations.

The following documents are attached to the application:

- 1) resolution of MSCE about the degree of disability of a victim;
- 2) resolution of MSCE or therapeutic and prophylactic institution about the need of a victim in medical, social and professional rehabilitation;
- 3) copy of death certificate;
- 4) information about family members of the deceased with indication of dependent persons;
- 5) copy of birth certificates of the children;
- 6) information about a member of the deceased family who is not working and takes care of his/her children, grand-children, brothers and sisters;
- 7) information conforming that persons at the age of 18 till 23 entitled to receive damages are students of higher educational institutions;
- 8) information about disabled persons who till the date of the death of the victim were entitled to support from him/her;
- 9) other documents.

If the documents confirming dependence of a person on a deceased are missing or impossible to be restored, the fact of dependence is established by court.

Article 258 Payments of damages in case of restructuring or liquidation of the employer responsible for injury

During liquidation or restructuring (merging, joining, separation, affiliation or reorganization) of the employer the successor to whom an application about damages is submitted shall be responsible for the payment of corresponding damages.

If the rights and duties of a liquidated employer are not transferred to the successor, he/she shall capitalize and deposit amounts subject to payment of damages in the national social insurance bodies.

Liquidation committee includes a representative from the national social insurance body.

Liquidation report is approved only after capitalization of amounts required to pay out damages in future and transferring the money to the bodies of the national social insurance.

In such cases the bodies of the national social insurance pay out the amounts of damages.

If capitalization of payments of damages is not made during liquidation of the employer, the body of the national social insurance is sued about payment of such damages.

The employer shall within two weeks inform the persons entitled to damages due to industrial injury about coming liquidation or restructuring.

Procedure of capitalization of the amounts of damages is established by the government of the Kyrgyz Republic.

Article 259 Victim' s representative at negotiations with the employer

Upon request of a victim or other interested persons a trade union or other representative body of the employees in the organization delegates its representative to participate at negotiations with the employer on behalf of a victim.

Article 260 Employer's consideration of an application about damages

The employer shall consider an application about damages and make relevant decision within ten days.

Decision is executed by an order (instructions, decree) of the employer with indication of names of persons who are granted damages, its amount per each member of the family and terms of payment.

One copy of the order (instructions, decree) of the employer on damages or well-founded refusal in writing is handed over to the interested persons within ten days since the date when the application was submitted.

A delay in consideration of an application or delivery of an order at a stated time is considered as refusal to pay damages.

Article 261 Prior court considerations of cases on payment of damages

Victims and persons entitled to damages in case of death of a victim have the right to appeal to the bodies of the national labor inspection against a decision of the employer on the issues related to payment of damages.

Decision of a body of the national labor inspection on payment of damages is obligatory for the employer.

If the employer does not agree with the decision he/she can lodge a complaint in accordance with the procedure established by the law. Disagreement of the employer with the decision taken by the national labor inspection cannot serve as a basis for nonpayment of damages.

Article 262 Referring the dispute on payment of damages to court. Procedure of court consideration of the dispute

If the interested person does not agree with the decision of the employer or resolution of the national labor inspection as well as if there is no answer within an established period of time the dispute is considered by court.

Trade Union or other representative employees' body upon agreement with the interested persons has the right to apply to court and participate in the process.

An application about damages is put in the court at discretion of an applicant either in the place where the employer is located or in the place of the applicant's residence, or in the place where the damage took place.

Statute of limitation does not apply to the application on payments of damage caused by an industrial injury to an employee or due to the death of a victim.

Article 263 Initial date for payment of damages

Amounts of damages are paid like follows:

1) to a victim – since the date when he/she became partially or totally disable due to industrial injury;

2) to persons entitled to indemnity of damage caused by the death of a victim – since the date of death of a victim but not before the date they got the right to be reimbursed.

Damage recovery claimed after 3 years since the moment when they got the right for indemnity of the damages is satisfied for the past time but not more than for 3 years prior application for indemnity.

The date when the application was submitted is considered the date of application for indemnity.

Article 264 Time periods within which damages are paid

Indemnity of damage caused by loss of earnings is made within a period for which disability due to industrial injury is established. As for additional expenses, they are reimbursed within a period of time, which is confirmed as necessary for such additional expenses.

Persons who are entitled to damages due to the death of a victim are reimbursed in accordance with Article 252 of this Code.

Indemnity of damages to a victim as well as to the persons entitled to damages caused by the death of a victim is paid irrespective of their income.

Article 265 Renewal of payment of damages

Payment of damages is renewed since the date when previous payments ended irrespective of the date when the victim or other interested persons applied to the employer.

Payments of damages for the past time are made under the condition that disability for that period is proved as well as upon presentation of the relevant documents. The same conditions refer to indemnity of additional expenses caused by damage to health.

Article 266 Responsibility of a recipient to report about circumstances affecting payment of damages

A recipient shall inform the employer in writing about changes happening which involve revision of the amount of damages.

Article 267 Payment of damages. Expenses related to delivery and forwarding of paid amounts.

The amount of damages for the current month is paid not later than by the end of this month.

Lump-sum benefit is paid not later than one month since the date of submission of the documents required for granting the benefit. Monthly payments of damages are made within time period established by the employer for payment of salaries/wages.

Amounts of damages are delivered and forwarded at the expense of the employer responsible for the damage. If a recipient wants, those amounts can be transferred to his/her bank accounts.

Article 268 Dates based on which damages are re-calculated

Re-calculation of the granted amount of damages is made according to the following:

- 1) since the first day of the month after the month when a victim applied for re-calculation of the amount of damages with all the required documents attached if the right to increased amount of damages emerged;
- 2) since the first day of the month following the month in which the above circumstances appeared if the circumstances arise causing reduction of the amount of damages.

Article 269 Procedure to pay damages for the time period spent in old peoples' homes or disabled homes

If a person who is granted damages is placed in a boarding house for old people or disabled people, then the amounts of damages (excluding amounts due to disabled dependents) are transferred by the employer to a settlement account of the boarding house.

The employer pays damages to the disabled dependents of the above persons as follows: one disabled dependent gets one fourth of the damages, two dependents get one third, three and more get one half of the granted amount of damages. The remaining part of the damages is transferred to a settlement account of the boarding house.

Management of the boarding house pays to the person who is granted damages the difference between the amount transferred and costs related to keeping such a person in a boarding house, but not less than 25 per cent of the granted amount of damages.

Article 270 Payment of damages for the time period during which the recipient was in prison

Ad liberum of a person who is in prison the due amounts of damages are transferred to his/her bank account or paid to a family member or any other citizen.

Article 271 Payment of damages to a person leaving for permanent residence outside the Kyrgyz Republic

If a person entitled to damages goes for a permanent residence outside the Kyrgyz Republic he/she is paid the due amount of damages in accordance with the procedure provided for by the international agreements of the Kyrgyz Republic.

Article 272 Payment of damages not received in proper time

Damages granted to a victim or survivors entitled to damages but not received in proper time are paid for the past time but not more than for the 3 years prior the date of application.

Amounts of damages due to a victim or survivors entitled to damages in connection with the death of a breadwinner which are received less than due because of the death are paid to survivors as prescribed.

Amounts of damages which are received less than due because of the fault of the employer responsible for the damage are paid for the past time without any limitation.

If damages, lump-sum benefit inclusive, are not paid in proper time the employer shall pay default interest at the rate of 1 per cent of the unpaid amount of damages for every day of delay.

Article 273 Limitations on collection of amounts received on account of damages

The employer can collect back the amounts received on account of damages to a victim or survivors of the victim entitled to damages in connection with the death of the victim under the condition that decision to pay was made based on forged deeds or false evidence deliberately given by interested persons as well as in the case of a calculating error or concealment of evidence important for calculation of the amount of damages.

The employer shall collect incorrect amounts of damages observing guarantees established by this Code.

In case payment of damages is stopped the remaining debt shall be collected by court.

Article 274. Reimbursement of expenses for burial

The employer responsible for damage brought about by death of a victim shall reimburse all the necessary expenses for burial to a person who made such expenses. The amount of expenses shall be defined upon agreement between the parties or by court.

Article 275. Files on damage recovery

The employer shall keep a separate file for each recipient which includes: order of the employer on fixing damages or court decision, application of a victim or other interested persons for granting damages and all the necessary documents.

Files of all victims shall be kept in an accounts department of the employer during the period of payment of damages.

After two years after stoppage of payment of damages the above files shall be turned for permanent storage in the State Archives.

PART VII. MATERIAL LIABILITY OF PARTIES TO A LABOR CONTRACT
CHAPTER 19. GENERAL PROVISIONS

Article 276. Obligation of a party to a labor contract to compensate for the damage brought about to another party

A party to a labor contract (the employer or an employee) which caused damage to another party shall pay for that damage in accordance with this Code and other laws.

Material liability of parties to a labor contract can be defined in that contract or attached agreements in writing. Contractual liability of the employer as to the employee shall not be less, and liability of an employee to the employer shall not be more than provided for by this Code or other laws.

Termination of labor contract after damage shall not excuse the parties to a labor contract from liability.

Article 277. Conditions of material liability of a party to a labor contract

Material liability of a party to a labor contract for the damage brought about to another party of that contract shall begin as a result of an unlawful behavior (activity or inactivity) and causal relationship between party of fault or unlawful behavior and the damage caused, if otherwise not provided for by this Code and other legislative acts.

Responsibility of an employee for the damage brought about to the employer shall be cancelled if the above damage was caused by irresistible force, normal economic risk, absolute necessity or necessary defence.

The employer shall reimburse damages to an employee in the form of the lost wages and lost or damaged property of an employee, as well as in accordance with the legal cases moral damage.

An employee shall reimburse damages to the employer in the form of the lost or damaged property of the employer and if necessary pays additional money.

In accordance with the law, a manager of organization should reimburse non-received income owing to unfair fulfillment of labor duties by a manager of an organization.

CHAPTER 20. MATERIAL RESPONSIBILITY OF THE EMPLOYER TO AN EMPLOYEE

Article 278. Obligation of the employer to reimburse material damage to an employee caused by

unlawful deprivation of an ability to work

The employer shall reimburse lost wages of an employee in all cases of unlawful deprivation of an employee of ability to work. Such an obligation shall start if wages were not received resulting from the following:

- unlawful release from work, transfer to another work or dismissal;
- delay with provision of a work-record book, wrong or not complying with current legislation wording of the reason of dismissal;
- refuse to execute or untimely execution of a decision of the body on settling of labor disputes or state legal labor inspector to re-employ an employee;
- spreading (also by providing a biased reference) of discrediting information which put obstacles to new employment;
- other cases provided for by the laws and collective agreement

Article 279. Material responsibility of the employer for the damage brought about to the employee's property

The employer shall reimburse in full the damage brought about to the property of an employee and caused by improper duties indicated in a labor contract. The amount of damages is defined based on market prices in a given locality at the moment of damage recovery or paid in kind if an employee agrees.

Article 280. Procedure to recover moral damages caused to an employee

Moral damage caused to an employee by illegal actions or idleness of an employer is reimbursed to an employee in the amount defined by the agreement of parties of the labor contract.

In case of a dispute, the fact of moral harming to employee and the amount of compensation is defined by the court regardless of subject to reimbursement of property damage.

Article 281. Procedure to recover damages caused to an employee

An employee or other interested person shall submit to the employer an application for recovery of damages. The employer shall consider the above application and make the relevant decision not later than ten days after the date of receipt of the application.

If an employee disagrees with the decision taken by the employer or upon termination of the time period established for getting an answer he/she has the right to apply to the bodies responsible for consideration of labor disputes or to court.

Court shall collect the costs from the employer in favor of an employee.

CHAPTER 21. MATERIAL RESPONSIBILITY OF AN EMPLOYEE

Article 282. Material responsibility of an employee for the damage brought about to the employer

An employee shall repair direct real damage in an amount established by this Code. Lost income (lost advantages) shall not be recovered from an employee.

Direct real damage is real diminution of available property of the employer or deterioration of the state of the above property (including property of the third parties if it is kept by the employer or if the employer is responsible for safe keeping of that property) as well as the need of the employer to go into expenses or extra payments for purchase or restoration of the property.

An employee shall respond both for direct real damage brought about to the employer and for the damage caused resulting from the employer's paying damage to other persons.

Article 283. Circumstances excluding material responsibility of an employee

An employee shall not respond for damage caused by irresistible force, normal economic risk, urgency or necessary defence or by the employer's non-performance of the obligation to ensure proper conditions for storage of property entrusted with an employee.

Article 284. The right of the employer to refuse from damage recovery from an employee

Taking into account actual circumstances when damage took place the employer has the right completely or partially refuse recovery of damage from an employee guilty of the damage if otherwise is not provided for by the legislative acts.

Article 285. Limitation to material responsibility of an employee

An employee shall respond for the damage brought about to the employer within the limits of his/her average wages if otherwise not provided for by this Code and other laws.

Article 286. Full material responsibility

An employee shall respond in full for the damage in the following cases:

- lack of valuable things entrusted with the employee in accordance with a written agreement on full material responsibility;
- lack of valuable things received in accordance with a document valid for one time;
- deliberate damage;
- damage brought about by an employee under alcoholic, drug or other intoxication;
- damage caused by criminal actions of an employee as established by a court sentence;
- when in accordance with the current Code and other laws an employee is entrusted with full material responsibility for the damage caused during performance of his/her duties.

- damage caused by administrative offence if such was established by the relevant governmental body;
- disclosure of information belonging to the secret protected by law (official, commercial or other secret) in cases provide for by the laws;
- damage caused during the time not related to performance of labor duties.

Full material responsibility shall be established by a labor contract concluded with the head, deputy-heads and chief accountant of an organization.

Article 287. Written agreement on full material responsibility of employees

A written agreement on full individual or collective material responsibility of employees who reached 18 years of age and who are directly servicing pecuniary or material values can be concluded both during employment or later as an addition to the labor contract.

A list of positions and jobs filled or performed by employees with whom employers can conclude contracts on individual or collective (team) material responsibility for recovery of damages in full measure shall be approved by an employer upon agreement with representative employees' body based on the model lists defined by the government of the Kyrgyz Republic.

A contract on full material responsibility concluded with an employee whose duties do not include servicing of pecuniary and material values shall not be valid.

According to a contract on full material responsibility the valuables are entrusted with a concrete employee who shall be personally responsible for their shortage. To be exempt from responsibility an employee with whom the above contract is concluded shall prove lack of his/her fault.

According to the contract on collective material responsibility for damage recovery in full measure the valuables are entrusted with a group of persons selected beforehand who become responsible for the shortage of the values. To be exempt from material responsibility a member of the respective collective shall prove the lack of his/her fault.

In organizations involved in servicing of values (storage, sales, transportation, processing etc.) the employer can established a risk fund, which is used to reimburse the lack of values.

Article 288. Evaluation of the damages

Amount of damage brought about to an employer as a result of loss or spoilt property shall be defined based on actual losses calculated using market prices in a given locality on the day of the damage but it shall not be less than cost of the property indicated in the accounting books taking into account degree of wear.

Article 289. Responsibility of an employer to establish the amount and reason for damages

Prior making a decision to recover damages from concrete employees an employer shall make a check-up so that to establish the size and reasons for the damages. For such a

check-up an employer has the right to establish a commission including proper experts, representatives of trade union or other representatives of the employees.

An employee shall provide explanation in writing so that his fault can be established.

An employee or the employee's representative has the right to get familiar with all the materials of the check-up and appeal against them in accordance with the procedure established by this Code.

Article 290. Voluntary recovery of damage by an employee

An employee who caused damage to an employer can voluntarily recover the damage either in full measure or partially.

Voluntary recovery of damage is made within the limits established by this Code.

By agreement between an employee and an employer it is possible to repay the damage by installments. In that case an employee gives a written commitment to recover the damage with indication of concrete dates of payment.

Upon agreement with an employer an employee can provide to the employer his/her property equal in value to the damage or repair the damaged property.

If an employee provided a written commitment to recover the damage voluntarily and failed to do so within the established date due to termination of labor relations then the unpaid debt shall be collected by court.

Article 291. Procedure to collect damages brought about to an employer

Damages not exceeding average monthly wages shall be collected from a guilty employee based on instructions from an employer. The employer shall make the relevant instructions not later than one month after the date when the amount of damages was established.

If the amount of the damages to be collected from an employee exceeds his/her average monthly salary or month's period expired since the date when damage was discovered the collection should be made by court.

If an employee disagrees with the collected amounts of damage he/she has the right to apply to court.

Article 292. Court decision to reduce the amount of damages to be collected from an employee

Court can reduce the amount of damages to be collected from an employee based on severity and kind of fault, actual circumstances and financial standing of the employee.

The amount of damage caused by an offence committed based on selfish shall not be reduced.

Article 293. Reimbursement of expenses caused by training of an employee

If an employee leaves an organization without good reasons before termination of a labor contract or an agreement on training at the expense of the employer the employee shall reimburse the expenses incurred by the employer when he/she directed the employee for training.

Article 294. Recovery of damages caused by the head of an organization

Damage brought about to an organization through the fault of its head shall be recovered in accordance with the current Code and other laws. Decision to collect damages from the head of the governmental (municipal) organizations shall be taken by higher organs.

Collection of material damages from the heads of organizations by court shall be made upon application of an owner or the authorized body and for the governmental (municipal) organizations also upon application of a public prosecutor.

PART VIII . CONTROL OF INDIVIDUAL CATEGORIES OF EMPLOYEES
CHAPTER 22. GENERAL PROVISIONS

Article 295. Features of labor control

Labor is controlled by standards partially limiting the use of general rules on the same issues or providing additional rules for individual categories of employees.

Article 296. Types of labor control

This Code and other laws shall define special features of controlling labor of women, married people, employees under 18 years of age, heads of organizations and persons working pluralistically as well as in other cases.

CHAPTER 23. CONTROL OF LABOR OF EMPLOYEES UNDER EIGHTEEN YEARS OF AGE

Article 297. Work where it is forbidden to use the labor of persons under eighteen years old

It is forbidden to use the labor of people under eighteen years old under deleterious and dangerous conditions and underground as well as in places, which could bring damage to their health and moral development (gambling business, night cabarets and clubs, production, transportation and sales of alcohol, tobacco, drugs and toxic substances).

It is forbidden for employees under eighteen years old to carry and move heavy things, exceeding the limits established for them.

A list of works where it is forbidden to use the labor of employees under eighteen years old as well as limiting standards of heavy things are approved according to the procedure established by the government of the Kyrgyz Republic.

Article 298. Additional guarantees during employment of people under eighteen years old

An employer shall take on people younger than eighteen years old who need social protection (graduates of children's homes, orphans and children left without parents etc.) sent by the corresponding state bodies for employment on account of the established quota.

Refusal to employ on account of the established quota persons mentioned in part one of these articles is forbidden and could be appealed by them in the relevant public bodies or court.

An employer shall be responsible for refusal to take on persons indicated in part one of this article in accordance with the procedure defined by the legislation of the Kyrgyz Republic.

Article 299. Medical examination of persons under eighteen years old

Persons under eighteen years of age are employed only after obligatory preliminary medical examination and later on until the age of eighteen are subject to annual obligatory medical examination.

Medical examinations provided for by this article are conducted at the expense of an employer.

Obligatory annual medical examinations of persons under age are conducted during working time, average wages retained.

Article 300. Employees under eighteen years old shall not be sent on business trips, work overtime and at night, on days off and holidays

It is forbidden to send employees under eighteen years old on business trips, engage in overtime or night time work, on days off and on holidays (excluding creative employees, mass media people and people from cinema, theatre, concert organizations, circus and others involved in creation or performance, professional sportsmen in accordance with the list of professions established by the government of the Kyrgyz Republic).

Article 301. Rate of output for the employees under eighteen years old

Rate of output for the employees under eighteen years of age is established based on common rates proportionally to the shortened working time established for that category of employees.

Reduced rate of output shall be established for the employees less than eighteen years of age employed after graduation from institutions of general education and elementary vocational institutions as well as after vocational training in a factory in cases and in accordance with the procedure established by the laws and other standard legal acts.

Article 302. Remuneration for employees under eighteen years of age with shortened duration of daily work

With by the hour pay employees under eighteen years of age get wages taking into account shortened working time. An employer at his own expense can pay additional money up to the level the employees of the corresponding categories get for the full day.

Labor of employees under eighteen years of age admitted to piecework is paid according to the established piece-rates. An employer from his own resources can establish an additional payment to them up to the tariff rate for the time by which the duration of their daily work is shortened.

Employees under eighteen years of age who are educated in general educational institutions of elementary, secondary and higher vocational training and work when they are free from school are paid proportionally to the time worked or output. An employer can establish for such employees additional payment from his own resources.

Article 303. Provision of work to persons graduated from educational institutions of elementary, secondary and higher vocational training

Persons who graduated from educational institutions of elementary, secondary and higher vocational training shall be provided with work in accordance with the received qualifications based on contracts concluded with employers or training contracts for specialists concluded by educational institutions of elementary, secondary and higher vocational training and employers.

Local governments of the Kyrgyz Republic on whose territory educational institutions of elementary, secondary or higher vocational training are located and the state employment service shall provide support in employment of the graduates of educational institutions of elementary, secondary or higher vocational training taking into account their qualifications.

Refusal of an employer to take on a graduate of educational institutions of elementary, secondary or higher vocational training in accordance with the contracts indicated in part one of this article, can be appealed in the respective governmental inspection bodies or in court.

In case a graduate of educational institutions of elementary, secondary or higher vocational training arriving to the place of employment in accordance with the contracts indicated in part one of this article is refused an employment, an employer shall respond in accordance with the procedure established by the legislation of the Kyrgyz Republic.

Article 304. Additional guarantees to employees under eighteen years of age during cancellation of a labor contract

Besides observance of the general procedure of dismissal an employer shall not cancel a labor contract with the employees younger than eighteen (apart from liquidation of an organization) without approval of the respective state labor inspection and commission on minors and their rights.

Article 305. Responsibility of employees under eighteen for damage

Employees under eighteen years old shall respond in full measure for the intentional damage and damage brought about under alcohol, drug or other intoxication or resulting from administrative offence confirmed by resolution of the respective state body or a criminal offence established by a court verdict.

CHAPTER 24. CONTROL OF LABOR OF WOMEN AND MARRIED PEOPLE

Article 306. Work where it is forbidden to use women's labor

It is forbidden to employ women for hard work and work under deleterious and (or) dangerous conditions and underground, apart from non-physical work or sanitary and catering services as well as for work involving lifting and moving of heavy things exceeding limits established for such work.

A list of industries, jobs, professions and positions with deleterious or dangerous conditions of work where it is forbidden to employ women with indication of limits of permissible loads for women during lifting and moving of heavy things is approved in accordance with the procedure defined by the government of the Kyrgyz Republic.

Article 307. Guarantees to women sent on business trips, involved in overtime and night work, on days off and holidays

It is permitted to send pregnant women on missions, involve them in overtime and night work, work on days off and on holidays only in the case when such work is not forbidden for them based on health data.

It is permitted to send women with children under three years of age on missions, involve them in overtime and night work, work on days off and on holidays only if they agree in writing to do so and if it is not forbidden for them based on medical recommendations. Women with children under three years old shall be informed in writing about their right to refuse to go on missions, get involved in overtime and night work, work on days off and on holidays. Guarantees indicated in part two of this article are provided for the employees who have disabled children and persons disabled since birth under eighteen years of age as well as for employees who look after sick members of their families based on medical certificate.

Article 308. Additional guarantees during employment of pregnant women and women with children

It is forbidden to refuse employment for women in connection with their pregnancy and availability of children.

Refusal of an employer to take on a woman because of the reasons indicated in part one of these articles could be appealed in the respective state labor inspections or in court.

Article 309. Transfer of pregnant women to another job

In accordance with medical certificate and upon application pregnant women get reduced rates of output and service, or those women are transferred to another job excluding influence of negative industrial factors, their wages (tariff rates) are retained as it was at previous work.

Before a pregnant woman gets another job which excludes influence of negative industrial factors she shall be relieved from work, wages (tariff rates) are retained for all the days which she was away from her normal work at the expense of an employer.

When pregnant women pass obligatory medical examinations in medical institutions, their wages (tariff rates) are kept at their work place.

Article 310. Maternity leaves

Upon application and based on medical certificate women are entitled to prenatal leave of 70 calendar days and postnatal leave of 56 calendar days (70 days in case of complicated confinement or birth of two and more children), the respective state social allowance is paid for that period set up by the laws of the Kyrgyz Republic.

Maternity leave is calculated in total and is provided to a woman in full irrespective of the number of prenatal days she actually used.

Duration of maternity leave and payment of the state social insurance allowance in the amount equal to full wage for women working in the mountains irrespective of their time record are established as follows:

For normal confinement - 140 calendar days (70 prenatal days and 70 postnatal days);

For complicated confinement - 156 calendar days (70 prenatal days and 86 postnatal days);

For birth of two or more children irrespective of actual length of prenatal leave – 180 calendar days (70 prenatal days and 110 postnatal days).

Women who adopted a child under three months old are entitled to maternity leave of 70 calendar days (84 days in case of adoption of two or more children) since the date of adoption, the state social insurance allowance to be paid for that period.

Article 311. Intervals for breast-feeding of a child

Apart from interval for rest and lunch working women who have children under the age of one year and a half shall be provided addition intervals for breast-feeding of a child at least every three hours with duration not less than 30 minutes.

If a workingwoman has two or more children under the age of one year and a half the length of such an interval is established of at least one hour.

Upon application of a woman the intervals for breast-feeding can be annexed to the lunch break or could be taken in total either at the beginning or at the end of a working day (shift) with corresponding reduced duration of the day (shift).

Intervals for breast-feeding of children are included in the working time and shall be paid at the rate of average wages.

Time and procedure to provide such intervals are established by an employer taking into account the wish of a mother.

Article 312. Guarantees to pregnant women and women with children during cancellation of a labor contract

It is not allowed to cancel a labor contract with pregnant women apart from cases of liquidation of an organization or expiry of the labor contract.

If a fixed-date labor contract is expired during the period of woman's pregnancy, an employer shall upon her application extend the period of labor contract till she gets the right to maternity leave.

It is forbidden to cancel a labor contract with women who have children under three years of age, with single mothers who have children under fourteen years old (eighteen years for disabled children), with other persons who are looking after the above children without

mothers on the initiative of an employer (apart from dismissal in cases according paragraph 1, sub-paragraph “a” of paragraph 3, paragraphs 5-8, 10,11 of article 84 of this Code).

Article 313. Extra days off and leaves to persons who look after disabled children and people disabled from birth

Upon written application, one of the parents (guardians) shall get one day off a month which is paid at the rate of average daily wages for looking after disabled children and disabled since birth until they reach eighteen years.

Upon written application of one of the parents (guardians) of disabled children and disabled since birth until they reach eighteen years an employer shall provide to him/her additional annual unpaid leave up to 14 calendar days.

Article 314. Guarantees and benefits to persons bringing up children without mothers

Guarantees and benefits to women in connection with maternity provided for by this Code (limitation to work at night and overtime, work during days off and holidays and on business trips, provision of additional leaves, preferential regime of work and other guarantees and benefits established by the laws and other standard legal acts) shall be extended to fathers bringing up children without mothers as well as to guardians of children under age.

CHAPTER 25. CONTROL OF LABOR OF DISABLED EMPLOYEES

Article 315. Realization of the right to work for the disabled

The disabled shall be guaranteed the right to work for an employer with normal working conditions taking into account individual rehabilitation programs, for specialized organizations, in workshops and units, accepting disabled employees as well as undertake individual or other labor activity not forbidden by the legislation of the Kyrgyz Republic.

Article 316. Quotas for working places for the disabled

The state employment service with participation of public organizations of the disabled shall develop standards for quotas for working place for the disabled which are approved by local governments together with local administrations at the rate not less than 5 percent of the total number of workers (if the number is at least 20 people). It is also possible that such conditions apply to part-time employment.

Standard of quoting working places for the disabled shall be provided to the employers by the state employment service not later than three months before the beginning of the next year.

Employers shall organize working places taking into account quotas employment of the disabled.

Article 317. Employment of disabled.

Employment of the disabled shall be provided by bodies of state employment services. Their directing disabled for employment in a specially created or quoted vacancy shall be mandatory for execution by employer.

In the case of justified refusal in employment of a disabled directed by a body of the state employment service, the employer bears responsibility according to the legislation of the Kyrgyz Republic.

Article 318. Additional guarantees at employment of a disabled.

The employer is obliged to accept the invalids directed by the state service of employment by way of employment in workplaces on account of fixed quotas. A disabled person shall not be subject to probation when being hired.

The conclusion of the appropriate authorized state bodies for health care about a regime of part time work, reduction of workload and other working conditions of the engaged disabled persons are obligatory for execution by the employer.

Article 319. The conditions of work and rest of a disabled

An employer shall develop the working conditions for disabled persons in accordance with their individual rehabilitation program as given by MSCE including organization of on-job professional training and work at home.

The working conditions including the payment, the business and rest time regime, or the length of the annual leave set in the collective and labor agreements shall not aggravate the situation of a disabled employees or limit their rights in comparison with any other employee.

Short business hours not to exceed 36 hours a week shall be provided for disabled persons of Groups II and I. Thus the duration of daily work of a disabled of Groups I and II cannot exceed seven hours. The application of the summarized account of working hours is not permitted.

The attraction of a disabled to overtime, to work on days off or to night work may be permitted exclusively by their consent provided that such work is not prohibited to them by the medical conclusion.

A disabled employee may be sent on a business trip exclusively by their consent.

An employer may reduce the rate of output for a disabled person depending on the state of their health.

Article 320. Additional guarantees for a disabled in the transfer to the other work and cancellation of the labor agreement.

A transfer of a disabled to another work undertaken without their consent and motivated by their disability shall not be permitted, except in the case where the medical-social commission of experts (MSCE) conclude that the state of the health of the disabled person prevents their fulfillment of professional responsibilities or exposes their health and labor safety to risks.

In the event of a reduction in the quantity of employees or of the staff cuts, a disabled employee shall be given preference with respect to the reservation of a job on condition of equal labor productivity and professional skills.

A disabled employee working at specialized organizations, workshops, sites, adjusted for the utilization of the labor of a disabled person shall have the preferential right to reserve their jobs regardless of the labor productivity and professional skills.

The employer may not terminate the labor contract with a disabled person under his own initiative (except for dismissal in connection with liquidation of organization, on item 1, sub-item "a" of item 3, items 5-8,10,11 of the 96th article of the current Code and in the period when a disabled passes medical, professional and social rehabilitation in the respective institutions regardless of the term of their stay there).

Article 321. The rights and responsibilities of an employer on the employment of the employee whose disability is caused by the work for this organization. Social protection of a disabled

An employer shall offer or develop new jobs for an employee who has become disabled due to an on-job injury or an occupational disease when working for the employer.

In the event of non-fulfillment of this requirement and the cancellation of the labor contract with an employee, who has become disabled when working for the employer, the employer bears responsibility according to the legislation of the Kyrgyz Republic.

The disabled who have worked for the employer prior to their retirement, shall reserve the right to medical care, provision with flats, orders to the health rehabilitation and preventive care institutions, and to other social services and privileges, as provided by this Code and by the collective agreements for other employees.

An employer may at their own expenses introduce rises and additions to the pensions of the disabled, for single persons in need of external assistance and care, and grant other benefits provided by collective agreements, contracts.

Article 322. Advantages and privileges for employers arranging labor of invalids

Employers, arranging invalids, use privileges, provided by legislation of The Kyrgyz Republic.

CHAPTER 26. PECULIARITIES OF LABOR REGULATION OF ORGANIZATION DIRECTOR AND COLLEAGUE EXECUTIVE ORGAN MEMBERS OF ORGANIZATION.

Article 323. Principal states

A director of organization – a physical person, who leads the organization in accordance with the law or establishing documents of organization, as well as does the functions of its individual executive organ.

The state of the present chapter is spread on the directors of organization independently of their organizationally-legal forms, except the following events, when:

a director is the only participant (founder), member of organization, owner of its property;

Administration of organization accomplishes with the agreement by another organization (administrative organization) or individual entrepreneur (administrator);

Article 324. Legal basis of labor regulation of organization director.

Rights and duties of organization director in the sphere of labor relations are determined by the present Code, laws and other normative acts, constitutive documents of organization, labor contract.

Article 325. Conclusion of labor contract with the director of organization.

Labor contract with the director of organization for establishing term by the constitutive documents of organization or agreement of sides.

Laws and other normative legal acts, constitutive documents of organization might be established procedures, preceding a conclusion of labor contract with director of organization (conducting a competition, election or assignment and others).

Article 326. Work of director of organization by moonlighting.

Director of organization can occupy the paid position in other organizations only with permission of plenipotentiary organ of juridical person or organization owner of property, or plenipotentiary organ by owner.

Director of organization cannot be an organ, establishing the functions of supervision and control in the given organization.

Article 327. Material responsibility of director of organization.

Director of organization bears full material responsibility for real damage caused to the organization.

In situations, provided for by the laws, director of organization compensates the losses to organization, caused by his guilty activities. In this case settling of losses is accomplished out in accordance with norms, provided for by a civil legislation.

Article 328. Further grounds for dissolution of labor contract with director of organization.

Except grounds, provided by the present Code and other laws, labor contract also might be dissolved with the director of organization by the following grounds:

1. In relating with impeachment of organization director – debtor, in accordance with legislation on bankruptcy (insolvency);
2. In relating with adoption by plenipotentiary organ of juridical person or owner of property of organization, or plenipotentiary person (organ) solution about stopping labor contract before time;
3. By other grounds, provided by labor contract.

Article 329. Dissolution of labor contract with director of organization by solution of plenipotentiary organ of juridical person or owner of organization property, or plenipotentiary organ (person) by owner.

In case if dissolution of labor contract with the director of organization till the end of the term of its activity by solution of plenipotentiary organ of juridical person or owner of organization property, or plenipotentiary organ (person) by owner by absence of guilty activities (failure to act) of the director, he'll be paid a compensation for dissolution with him a labor contract before time, determined by labor contract.

Article 330. Dissolution of labor contract by initiative of organization director before time.

The director of organization has a right to dissolve the labor contract before time, notifying the employer (owner of organization property or penitentiary organ) in written form, not late then one month.

Article 331. Peculiarities of labor regulation of colleague executive organ members of organization.

Laws, constitutive documents of organization on members of colleague executive organ of organization, concluding a labor contract, peculiarities of labor regulation can be spread, established by the present head for the director of organization.

Laws can establish other peculiarities of labor regulation of organization directors and members of colleague executive organs of these organizations.

CHAPTER 27. PECULIARITIES OF LABOR REGULATION OF PERSONS, WHO IS WORKING BY MOONLIGHTING.

Article 332. Common states about work by moonlighting.

Moonlighting – doing by employee another regular paid work on conditions of labor contract in free time from the main work.

Labor contract conclusion is exceeded on work by moonlighting with unlimited quantity of employers, if else is not provided for by law.

Work by moonlighting might be done by employee, either in the main work or in other organizations.

Index is obligatory in the contract that the work is moonlighting.

Moonlighting work isn't permitted to persons, who aren't 18 on heavy works, on works with dangerous and harmful conditions, if the main work is related with such conditions and also in other situations, provided by law.

Article 333. Documents, submitted in admitting on job by moonlighting.

After accepting on work by moonlighting in other organization, employee obliges to bring passport or other document, identifying personality to an employer. After accepting on work, demanding special skills, employer has a right to demand from employee to bring diploma or other document about education or professional training or proper witnessing of

their copies, and after accepting on a heavy work, on work with harmful and dangerous conditions of work, - character and conditions of work reference on main work.

Article 334. Duration of the working time on conditions of moonlighting.

Duration of the working time, established by the employer for persons, working by moonlighting, cannot exceed 4 hours per a day and 16 hours per a week.

Article 335. Work payment of persons, working by moonlighting.

Work payment of persons, working by moonlighting, is made proportionally to waste time, in demanding on output, or on other conditions, determined by labor contract.

After establishing to persons, working by moonlighting with time payment of work, normed assignments payment is made by terminate results for factual done work.

Persons, working by moonlighting in regions, where region coefficients and increment to earnings are established, payment of work is made with record of these coefficients and increments.

Article 336. Leave in working by moonlighting.

Persons working by moonlighting, annually paid vacations are given at the same time with leave on the main work. If an employee didn't work 11 month on the work by moonlighting, leave is given by advance of salary.

If duration of the annual paid leave on the work by moonlighting is less then the duration of leave on the main work, employer gives him a leave without keeping his salary of corresponding duration.

Article 337. Guarantees and compensates for persons, working by moonlighting.

Guarantees and compensates, provided for persons, containing the work with the study, and also for persons, working in high-mountain and equitable places to them, are given only on the main work.

Other guarantees and compensates, provided by the present Code, laws, other normative legal acts, collective contracts, agreements, local acts of organization, are given to persons, working by moonlighting, in the full volume.

Article 338. Further basis for stopping a labor contract with persons, working by moonlighting.

Besides basis, provided by the present Code, other laws, labor contract with person, working by moonlighting, can be stopped in the case of accepting on work of an employee, whom that work will be the main work for.

CHAPTER 28. PECULIARITIES OF WORK REGULATION OF EMPLOYEES, CONCLUDING A LABOR CONTRACT FOR 2 MONTHS TERM.

Article 339. Conclusion of labor contract for 2 months term.

After accepting on work for 2 months term test is not given to employees.

Article 340. Involvement to the work on weekends and non-working holiday days.

Employees, concluding a labor contract for 2 months term, can be involved to the work on weekends and non-working holiday days in the term limits with their written agreement.

Work, on weekends and non-working holiday days, is compensated in money form, but not less than double form.

Article 341. Paid vacations.

Employees, concluding a labor contract for 2 months term, are given paid vacations from settling 2 working days per a month of work.

Article 342. Dissolution of labor contract.

Employee, concluding a labor contract for 2 months term, obliges to notify employer in written form about dissolution of labor contract before time, 3 calendar days before.

Employer obliges to notify an employee, concluding a labor contract for 2 months term, about coming dismissal in relating with liquidation the organization, abridgment of quantity or state of employees in written form, guaranteed by signature not less than 3 calendar days before.

Employee, concluding a labor contract for 2 months term, isn't paid a severance benefit after dismissing, if else is not established by the present Code, other laws, collective contracts or labor contract.

CHAPTER 29. PECULIARITIES OF WORK REGULATION OF EMPLOYEES, OCCUPYING SEASONAL WORK.

Article 343. Seasonal works.

The Government of The Kyrgyz Republic confirms lists of seasonal works.

Article 344. Conditions of concluding a labor contract with employees, occupying seasonal works.

Conditions of seasonal character of work should be noticed in the labor contract.

After accepting employees on seasonal works, test cannot exceed 2 weeks.

Article 345. Paid vacations to employees, occupying seasonal works.

Employees, occupying seasonal works, are given paid vacations from settling 2 calendar days for each month of work.

Article 346. Dissolution of labor contract with employees, occupying seasonal works.

Employee, occupying seasonal works, obliges to notify employer about dissolution a labor contract in written form, 3 calendar days before.

Employer obliges to notify employee, occupying seasonal works, about coming dismissal in relating with liquidation of organization, abridgment of quantity or state in written form, guaranteed by signature not less then 7 calendar days before.

After stopping a labor contract with an employee, occupying seasonal works, in relating with liquidation of organization, dismissal of quantity or state, severance benefit is paid in 2 weeks average salary form.

CHAPTER 30. PECULIARITIES OF WORK REGULATION OF PERSONS, WORKING PART-TIME.

Article 347. Common states of part-time work.

Part-time work – is a special form of establishing of working process out of permanent living place of employees, when daily coming to permanent living place cannot be provided.

Part-time work is used after considerable removal of work place from the location of employer with impossibility of doing work by usual method, and also in purposes of building terms reduction, repair, reconstruction and exploitation of objects of producing, social and other direction in remote regions or regions with special nature conditions.

Employees, involving in part-time work, at the period of location on object producing of work, live in special created part-time rural settlement, which are a complex of building and structure, intended for providing life, pointed by employee in period doing of work and interchange rest.

Conditions of part-time work of organization, provided by the present Code and normative legal acts of the government of the Kyrgyz Republic.

Article 348. Limits of part-time work.

Employees under 18, pregnant women and women, had children under 3 years, and also persons, had medical contra-indication to do the part-time work cannot be involved to part-time works.

Article 349. Duration of part-time work.

Part-time is a common period, including time of doing work on an object and time of interchanging rest in the part-time rural settlement. Duration of part-time work mustn't be exceeded one month.

In other cases on separate objects employer can increase duration of part-time till 3 months by agreement with representative organ of organization employees, and on works, doing on objects, situated on 2000 meters altitude, agreement with corresponding state organs of public health and work inspection.

Article 350. Registration of part-time work time.

Summing registration of part-time work for a month is established by working part-time, Q or other longer period, but not longer then one year.

Registration period includes all working time, time in the way from location of organization or from point of charge to the location of work and back, and also time of rest, that is on the given calendar period of time. In this case common duration of working time for recording period mustn't be exceeded the normal quantity of working time, provided by the present Code.

Employer obliges to lead the registration of working time and time of rest on every employee by months and for whole recording period.

Article 351. Regimes of work and rest of part-time work.

Working time and time of rest, in limits of registration period, are regulated by graph of part-time work, which is confirmed by agreement by employer with the representative organ of employees of organization and brought to employees not later than 2 months before its activity.

In the graph, time is provided, which is necessary for delivering of employees and back. Days of being in way to the place of work and back on work time are not included and cannot be days inter part-time rest.

Hours of overworked working day in limits of part-time work graph can be accumulated within a calendar year and summed till whole days with following giving of further days of work.

Days of work, in relating with work after limits of normal duration of working time in limits recoding period in limits of part-time graph are paid in tariff rate form (rate of pay), if else is not provided by labor contract or collective contract.

Article 352. Guarantees and compensates to persons, working part-time work.

Employees, doing part-time work, for each calendar day of arrival in places of producing work in part-time period, and also for factual days in the way from the location of employer (point of charge) to the location of work and back, are paid increment per diem for part-time work instead in forms, provided by way of determining by the government of The Kyrgyz Republic.

Employees, going for part-time work to high-mountain regions and equable localities from other regions of the country, are provided the following guarantees and compensates:

1. Region coefficient is settled and interest increment to the salary in amount and by way of providing for persons, permanently working in the high-mountain regions and equable localities to them;

2. Annual further paid leave;

a) Working on altitude: from 2000 to 3000 – 12 calendar days; from 3001 to 4000 – 24 calendar days; from 4001 and higher – 36 calendar days;

b) Working in localities, equating to high-mountain regions –12 calendar days;

Employees, going for doing part-time work, in regions and on territories, which are used region coefficients to the salary, these coefficients are recoding in corresponding with laws and other normative legal acts of The Kyrgyz Republic.

For the day in way from the location of an employer (point of charge) to the place of work and back, provided by the graph of part-time work, and also for the days of late of employees in the way because of meteorological conditions and traffic organizations, employee is paid day tariff rate (salary).

CHAPTER 31. PECULIARITIES OF WORK REGULATION OF EMPLOYEES, WORKING TO EMPLOYERS – PHYSICAL PERSONS.

Article 353. Peculiarities of labor contract, concluding by employee with employer – physical person.

After concluding a labor contract with employer – physical person, employee obliges to do any not forbidden by legislation work, determined by this contract.

All conditions are included in obliged form in written labor contract, material for the employee and the employer.

Employer – as individual obliges:

To formalize labor contract in written form with employee and register that contract in the corresponding government organ in sphere of labor and employment.

To pay for insurance contribution and other obliged payments in forms and in way of determining by law.

To formalize insurance identify of the state pension insurance for persons, working at the first time.

Article 354. Term of labor contract.

By agreement of sides labor contract between employee and employer – physical person can be concluded either for undetermined or determined term.

Article 355. Regimes of work and rest.

Regime of work, procedure of given days off and annual paid vocations are determined by agreement between employee and employer – physical person. In this situation duration of the workweek cannot be more, and duration of annual paid leave less then provided by the present Code.

Article 356. Change of material conditions of labor contract.

About change of conditions, provided by labor contract, employer – physical person notifies employee in written form not less then 7 calendar days before.

Article 357. Dissolution of labor contract.

Besides basis, provided by the present code, working to employer – physical person, can be dissolved by basis, provided by labor contract.

Terms of warning about dismissal, and also events and sizes of paid severance benefit after dissolution of labor contract and other compensating payments, are determined by labor contract.

Article 358. Permission of individual work disputes.

Individual work disputes, no regulated by employee and employer – physical person autonomously, are considered by way of judicial.

Article 359. Documents, certifying work

Document, certifying time of work to employer – physical person, is a written labor contract.

Employer – physical person doesn't have right to make records in labor books of employees, and also formalize labor books on employees, accepting on work at the first time.

CHAPTER 32. PECULIARITIES OF WORK REGULATION OF HOUSE-EMPLOYEES.

Article 360. House-employees.

House-employee is a person, concluding a labor contract about doing housework from materials and with using instruments and mechanisms, devising by employer or getting by house-employee at his expense.

In case of using by house-employee his instruments and mechanisms, he is paid compensate for their wear (depreciation). Payment of such compensates, and also compensates of other expenses, relating with doing housework, is made in way of determining by labor document.

Order and terms of providing an employee with raw materials, materials and half-finished products, calculation of produced products, compensate for material costs, belonging to house-employees, order and terms of export made products, are determined by labor contract.

Persons, concluding labor contract about doing housework, are spread action of labor legislation with peculiarities, provided by the present code.

Article 361. Conditions

Works, entrusted to house-employees, cannot be

Article 362. Dissolution of labor contract with house-employees.

Dissolution of labor contract with house-employees is made by basis, provided this Code and labor contract.

CHAPTER 33. WORK OF PERSONS, LIVING AND WORKING IN HIGH-MOUNTAIN REGIONS AND EQUABLE PLACES TO THEM.

Article 363. Legislation of The Kyrgyz Republic about guarantees and compensates for persons, living and working in high-mountain regions and equable to them places.

State guarantees and compensates for persons, living and working in high-mountain regions and equable to them places, provided by the present Code, laws and other normative legal acts.

Further guarantees and compensates for persons can be established by collective documents and agreements, proceeding from financial possibilities of employees.

Article 364. Labor experience, which is necessary for getting guarantees and compensates.

Order of establishing and calculating of labor experience, which is necessary for getting guarantees and compensates, is determined by the government of The Kyrgyz Republic, in accordance with law.

Article 365. Payment of work.

The payment in mountainous areas and highlands is carried out with application of regional factors and percentage extra charges to wages.

Article 366. Regional factor to wages.

The size of regional factor to wages and terms of its payment is established by the Government

Article 367. The percentage extra charge to wages

To persons working in mountainous areas and highlands, the percentage extra charge to wages for the experience of work in the given areas or districts is paid. The size of the percentage extra charge to wages is established by the Government

Article 368. The state provides financial support for employees dismissed in connection with liquidation of the organization, reduction of number or staff of employees.

To persons dismissed from the organizations, located in mountainous areas and highlands in connection with liquidation of the organization or reduction of number or staff of employees, the average wages are kept for the period of employment, but not over four months, in view of the severance pay.

Payment of the severance pay and kept wages is made by the employer in a former place of work due to means of the employer.

Article 369. Shortened working week

For women working in mountainous areas and highlands, by the collective agreement or the labor contract a 36-hour week if smaller duration of working week is not stipulated for

them by laws may be established. Thus, the wages are paid in the same size, as at full working week.

The terms of an establishment of the shortened working week is determined in the collective agreement or the labor contract.

Article 370. Annual additional paid leave

In addition to major annual basic paid leave and additional paid leaves given in accordance with general practice to persons, working in mountainous areas and highlands, gives annual additional paid holiday:

- when working 12 calendar days from 2000m. to 3000m. above sea level; 24 calendar days - from 3001 to 4000; 36 calendar days – higher than 4001;

- 12 calendar days - at work in the districts, equal to mountainous areas (highlands).

General duration of annual leave working in combination is determined in accordance with general practice.

Article 371. Conditions of granting and connection of annual paid holidays

The Annual paid additional leave established by Article 367 of the present Code, is given employees after the expiration of eleven months of work at the given employer.

General prolongation of annual paid leave is determined by summing up of the annual basic and all additional annual paid leaves.

Full or partial connection of annual paid leaves to persons working in mountainous areas or highlands, is supposed no more than for two years. Thus, general duration of the given leave should not exceed six months, including time without pay, necessary on travel to a place of use of leave and back.

The unused part of annual paid leave exceeding six months, joins the next annual paid leave the next year.

At the request of one of working parents (or the trustee) the employer is obliged to give annual paid holiday or its part (not less than 14 calendar days) for support of the child wanting to take his admission test from educational establishments of average or maximum vocational training located in other district. At presence of two and more children leave for the specified purpose is given once for each child.

Article 372. Medical services guarantees

The above-mentioned collective agreement lets people working in mountainous areas and highlands travel free of charge if they need distant medical services at presence of the appropriate medical conclusion if the appropriate consultations may not be submitted in a place of residing.

Article 373. Contract negotiation with persons who have arrived to mountainous areas and highlands.

Contract negotiation with persons who have arrived to mountainous areas and highlands, is supposed at presence at them the medical certificate that allows them to work and reside in the given areas and districts.

Article 374. Compensation related to transfers

To the persons who have negotiated the labor contract about work in the organizations, located in mountainous areas and arrived according to these contracts from other regions of republic, are guaranteed the next compensation:

A lump sum at a rate of two official salaries and a lump sum on each member of the family arriving with him at a rate of half of the official salary of the employee;

Payment of a fare of the employee and members of his family in territory of the Kyrgyz Republic under actual charges and conveyance not over three tons on family under actual charges, but not over the tariffs stipulated for transportation by railway transportation;

Paid leave by prolongation seven calendar days on gathering and arrangement on a new place.

The right on payment of a fare and conveyance of members of family is kept during one year from the date of the conclusion by the employee of the labor contract in the given organization in the specified areas and districts.

To an employee and members of his family in case of transfer to a new residence in other district, in connection with cancellation labor contract on any bases (including in case of death of the employee), except for dismissal for guilty actions, the fare is paid for actual charges and conveyance not over three tons on family under actual charges, but not over the tariffs stipulated for transportations by railway transportation.

Guarantees and indemnifications stipulated by present Article are given only in the basic place of work.

Article 375. Other guarantees and compensations

Guarantees and indemnifications for the persons working in high-mountainous areas and equal to districts, in the field of social insurance, a provision of pensions, housing relationships and others are established by the appropriate laws and other normative legal certificates (acts) of the Kyrgyz Republic.

CHAPTER 34. FEATURES OF REGULATION OF WORK OF EMPLOYEES OF TRANSPORT

Article 376. The employment, connected to movement of vehicles.

The employees who are given an employment, directly connected with movement of vehicles, should pass professional selection in the order determined by the government body in the field of the appropriate type of transport and also to have the appropriate preparation and a state of health necessary for execution (performance) of labor duties.

Reception of the employee on the work directly connected to movement of vehicles is made only after obligatory preliminary medical survey in the order established by the government body in the field of health and the appropriate kind of transport.

Article 377. Working hours and time of rest of employees, which work it is connected to movement of vehicles.

To employees which work is connected directly to movement of vehicles, work outside the duration established for them working hours on a trade of silts of the post directly connected to movement of vehicles, and also work with harmful and (or) dangerous working conditions is not authorized.

The List of trades (posts) and the works directly connected to movement of vehicles, affirms in the terms order established by the Government.

Features of a mode working hours and time of rest, work conditions for separate categories of employees which work is directly connected to movement of vehicles, are established by enforcement authority in the field of the appropriate type of transport. These features may not worsen position of employees in comparison with established by the present Code.

Article 378. Discipline of employees, whose work is directly connected to movement of vehicles.

Discipline of employees, which work it is connected directly to movement of vehicles, it is adjusted by the Code and charters about the discipline, confirmed by the Government.

CHAPTER 35. REGULATION OF WORK OF PEDAGOGICAL EMPLOYEES.

Article 379. The right on occupation by pedagogical activity

To pedagogical activity, persons, having the educational qualification which is determined in the regulations established by typical positions about educational establishments of the appropriate types and kinds, confirmed by the Government of the Kyrgyz Republic.

To pedagogical activity in educational establishments persons to whom this activity is forbidden by a verdict of court or under medical indications, and also persons are not supposed, who had a previous conviction for the certain crimes. Laws establish lists of the appropriate medical contra-indications and crimes.

Article 380. Labor contract with the employee of establishments of the higher professional education

Replacement of all posts of scientific and pedagogical employees in a higher educational institution, is made under the labor contract concluded for the term of till five years.

At replacement of posts of scientific and pedagogical employees in higher educational institutions, except for the dean of faculty and managing faculty, the conclusion labor contract is preceded with competitive selection.

The regulations about the order of replacement of the specified positions affirms the Government.

Positions of the dean of the faculty-managing faculty of a higher educational institution are elective. The terms of elections on the specified posts are determined by charters of higher educational institutions.

In state and municipal higher educational institutions, positions of university presidents, vice-rectors, deans of faculties, heads of branches (institutes) are replaced by persons in the age of than sixty five years irrespective of time of the conclusion of labor contracts are not more senior. Persons occupying the specified positions and old enough are offered from their consent other positions in accordance with their appropriate qualifications. The procedure of election and recall of the manager of the higher educational institutions is determined by the Government of the Kyrgyz Republic.

Vice-rectors employ under the urgent labor contract. The termination date of the urgent labor contract, a vice-rectors negotiated with a higher educational institution, coincides with terms the terminations power university president.

On presentation of an academic council of a higher educational institution the founders have rights to prolong term of stay in a position of university president before achievement of age by him up to seventy years.

On suggestion (idea) of a council of a higher educational institution university president has the right to prolong term of stay in a post of the pro-rector, the dean of faculty, the head of branch (institute) before achievement of age by him (it) seventy years.

Article 381. Duration of working time of educational workers

For pedagogical employees of educational establishments the reduced duration working hours no more than 36 hours per week is established.

The academic Load of the pedagogical employee of the educational establishment, stipulated in the labor contract, may be limited to the top limit, in cases the stipulated typical position about educational establishment of the appropriate type and a kind, the confirmed Government.

On a position and (or) specialties to pedagogical employees of educational establishments with an account of features of their work duration working hours (norms of hours of pedagogical work for the rate of wages) is determined by the Government. Work in combination, including on a similar post, a specialty is authorized to pedagogical employees.

Article 382. The annual basic lengthened paid holiday.

The annual basic lengthened leave which duration is determined by the Government is given to pedagogical employees of educational establishment.

Article 383. The additional bases for the expiration of the labor contract with the pedagogical employee

Besides the bases stipulated by the present Code and other laws, the labor contract with the pedagogical employee of educational establishment may be stopped in cases:

1. Repeated during one year of rough infringement of the charter of educational establishment;
2. Applications, including even single methods of education connected with physical and (or) mental violence above the person of the trainee, the pupil.
3. Achievements by the university president, the vice-rector, the dean of faculty, the head of branch (institute), the state or municipal educational establishment of the maximum (supreme) vocational training of age of sixty five years.

CHAPTER 36. FEATURES OF REGULATION OF WORK OF EMPLOYEES OF DIPLOMATIC SERVICE OF THE KYRGYZ REPUBLIC

Article 384. Regulation of labor relations of employees of diplomatic service of the Kyrgyz Republic

The labor legislation of the Kirghiz Republic is distributed to employees of diplomatic service of the Kirghiz Republic with features the stipulated by the Code, laws and others normative lawful acts of the Kyrgyz Republic.

Article 385. The labor contract with employees of diplomatic service of the Kyrgyz Republic

Employees of diplomatic service of the Kyrgyz Republic negotiate 3-year contract. Upon its expiration, a contract may be negotiated again.

At directing the employee of diplomatic service of the Kirghiz Republic on work in representations of the Kyrgyz Republic abroad, occupying a position in suitably enforcement authority or official body establishment of the Kyrgyz Republic, in the prisoner with him before the labor contract changes and the additions concerning term and conditions of his work abroad. Upon expiration date of work abroad former or equivalent work should be given such employee, and at it absence with the consent of the employee - other work.

Article 386. Guarantees and compensations to the employees who are sent to work in representations of the Kyrgyz Republic abroad

Working conditions of the employees directed on work in representations of the Kirghiz Republic abroad, are defined (determined) by labor contracts, which may not worsen their position compared with the present Code.

Article 387. Guarantees and indemnifications for the employees directed on work in representations of the Kirghiz Republic abroad

The order and conditions of payment of indemnifications in connection with moving to a place of work, and also a condition it is material - household maintenance of employees, sending on work in representations of the Kyrgyz Republic abroad, are defined (determined) by the Government of the Kirghiz Republic in view of climatic and other conditions in a host country.

Article 388. The additional bases for the termination (discontinuance) of the labor contract with the employee sent on work in representations of the Kirghiz Republic abroad.

Besides the bases, the stipulated present Code and other acts, the prisoner with the employee, directed on work in representations of the Kirghiz Republic abroad, the urgent labor contract may be stopped in cases:

1. Occurrence of an extreme situation in a host country;
2. Reduction of the established quota of diplomatic or technical employees of representation;
3. Announcements of the employee persona " non the grant " or receptions of the notice from local competent authorities about his unacceptable conditions in a host country;
4. Non-observances by the employee customs and laws of the host country, and also the standard norms of behavior and morals;
5. Defaults by the employee taken up on him at the negotiating of the labor contract of obligations on maintenance members of the family of laws of the host country, the standard norms behavior and morals, and also corrected residing working, in territory of the appropriate representation;
6. Unitary rough infringement of labor duties, and also regime requirements with which the employee was acquainted at the conclusion of the labor contract;
7. Time invalidity in with higher two months or at presence of diseases, interfering to work by abroad, according to the list of diseases, authorized in the order established by the Government.

At cessation of work in representation KR abroad on one of the bases stipulated by honor of the first present Article, dismissal of the employees who are not consisting in staff (state) directed of them on work abroad enforcement authorities or official body of the Kyrgyz Republic to be made on Item 2 of Article 80 of the present Code.

Dismissal of employees, consisting in staff of the specified bodies and establishments to be made on the basis, the stipulated present Code and other laws.

CHAPTER 37. REGULATIONS OF WORK OF EMPLOYEES OF THE RELIGIOUS ORGANIZATIONS.

Article 389. of the party (side) of the labor contract in the religious organization

The employer is the religious organization, registered in the order established by the law, and concluded the labor contract with the employee in written form.

An employee is the person who has reached 18 years old, negotiated the labor contract with the religious organization, personally carrying out the certain work and submitting internal to establishments of the religious organization.

Article 390. An internal establishment of the religious organization

Rights and duties of the parties of the labor contract are determined in the labor contract in view of the features established by internal establishments of the religious organization which should not contradict Constitution of the Kyrgyz Republic, the present Code and other laws

Article 391. Contract negotiation with the religious organization and its changes

The labor contract between an employee and the religious organization may consist on the certain term.

At the conclusion of the labor contract the employee is obliged to carry out any works not forbidden by the law determined to these contracts.

In the labor contract according to the present Codes and internal establishments of the religious organization are included a condition, essential to the employee and for the religious organization as employer.

If necessary changes of essential conditions of the labor contract the religious organizations are obliged warn about it of the employee in writing not less than 7 calendar days prior to their introduction.

Article 392. A mode working hours of persons working in the religious organizations.

The Mode working hours of the persons working in the religious organizations, is determined in view of the normal duration established to the present Codes working hours proceeding from a mode of realization of ceremonies or other activity of the religious organization certain (determined) by its (her) internal establishments.

Article 393. A liability of employees of the religious organizations.

With the employee of the religious organization the contract about a full liability may be made according to the list determined by internal establishments of the religious organization.

Article 394. The expiration of the labor contract with the employee of the religious organization

Besides the bases stipulated by the present Code, the labor contract with the employee of the religious organization might be stopped on the basis stipulated by the labor contract.

The notification's deadlines about the fact of dismissal of an employee of a religious organization on the grounds stipulated by the labor agreement and also the procedure and the terms of issuance the guarantees and compensations to such employees, connected with such dismissal shall be defined by the labor agreement.

Article 395. Regulation of labor of the employees of religious organizations

Individual labor disputes shall be settled in legal form in case an employee and religious organization, as the employer, have not been regulated individual labor dispute on their own.

CHAPTER 38. THE SPECIAL FEATURES OF LEGAL REGULATIONS OF THE WORKING CONDITIONS OF OTHER CATEGORIES OF EMPLOYEES

Article 396. Regulation of the labor of employees working in the Armed Forces and organs of the Executive Body, where military service is stipulated

For those employees who have concluded a labor contract to work in military units, establishments, military-educational establishments and other organizations of Armed Forces and organs of Executive Body, which the legislation of Kyrgyz Republic stipulates for military service, the labor legislation with special features provided for laws and other normative acts of Kyrgyz Republic shall be applied.

According to the tasks of organs, establishments and organizations, mentioned in first part of this article, the special terms of labor payment as well as extra privileges and advantages should be settled for those employees.

Article 397. Some special features of regulation of the working conditions of physicians.

The duration of the business hours shall be shortened to not more than 39 hours per week for physicians. The Government of Kyrgyz Republic fixes the duration of the business time for physicians depending on post and/or their specialty.

Article 398. Regulation of the labor of creative employees in the mass media, the organizations of cinematography, theatres, theatrical and concert organizations, circuses and others who participate in creation and performance work and professional athletes.

The labor legislation with special features provided with laws and other normative-legal acts shall be extended to the creative employees of mass media, organizations of cinematography, theatres, theatrical and concert organizations, circuses and others who take part in creation and performance work and professional athletes.

PART XI. THE PROTECTION OF LABOR RIGHTS OF THE EMPLOYEES. SETTLEMENT OF LABOR DISPUTES. THE RESPONSIBILITY FOR THE OFFENCE OF LABOR LEGISLATION

CHAPTER 39. GENERAL PROVISIONS

Article 399. The ways of protection of employees' labor rights

The principal ways of the protection of employees' labor rights and legal interests are:

- the state supervision and control for the observance of the labor legislation;
- the protection of employees' rights by the trade unions;
- employees' self-protection of labor rights.

CHAPTER 40. STATE SUPERVISION AND CONTROL FOR THE OBSERVANCE OF LAWS AND OTHER NORMATIVE-LEGAL ACTS OF LABOR

Article 400. The state organs of supervision and control for the observance of the law and other normative-legal instruments of labor

The organs of state labor inspection carry out the state supervision and control for the observance of the law and other normative-legal instruments of labor in all organizations situated on the territory of Kyrgyz Republic.

The Government of Kyrgyz Republic fixes the provision on state labor inspection.

The Chief State Labor Inspector of Kyrgyz Republic who is appointed and dismissed by the resolution of the Government of Kyrgyz Republic shall carry out the supervision of the activity of State Labor Inspection.

The state supervision over the observance of the rules of safe performance of works in particular industries and at certain objects shall be carried out (along with the State Labor Inspection) by the special appropriately authorized bodies and by the state supervision bodies.

The General Procurator of Kyrgyz Republic and procurators, subordinated to him in accordance with law, shall carry out the state supervision for the accurate and uniform observance of the laws and other normative-legal instruments of labor.

Article 401. The interaction of the organs of the State Inspection of Labor with other organs and organizations.

The organs of the State Labor Inspection carry out their activity interacting with the organs of the Executive Body, the organs of local self-management, other state supervision-controlling organs, organs of the public prosecution office, associations of trade units and employers, other organizations.

The activity of the bodies of state supervision and control and public control dealing with the matters of the observance of the law and other normative-legal instruments of labor and labor safety rules shall be implemented by the State Labor Inspection of Kyrgyz Republic.

Article 402 Essential proxy of the state inspection board of labor.

In accordance with their tasks the state inspection board of labor has the following proxy:

- it carries out state supervision and control upon labor legislation in organizations through checking, inspecting, issuing orders of liquidating breach, bringing guilty to responsibility in accordance with the law.

- it analyses circumstances and reasons of breach, take measures to liquidate them and to restore violated labor rights of citizens.

- it considers cases of administrative offense in accordance with the law of the Kyrgyz Republic.

-it sends corresponding information to bodies of executive power, bodies of local self-governing, law keeping and judicial bodies.

-it carries out supervision and control upon set procedure of investigating and registration accidents in industry.

-it generalizes a experience of applying, analyses reasons of violating laws and other legislative regulations of labor, gets ready corresponding suggestions aimed at their improvement.

-it analyses state and reasons of injures in industry and works out suggestions for preventing measures, participates in investigating accidents in industry or investigate themselves.

-it makes conclusions on projects of building standards and rules, other documents of this kind, consider and coordinate projects of branch and inter branch rules aimed at labor protection.

-it asks for and gets information which necessary to execute their tasks from all organizations.

-it takes down and views statements, letters, complaints from employees and other citizens about violation of their labor rights, takes measures to liquidate breach and restore broken rights.

-it in forms and give advise to employees and employers in the questions connected with labor laws.

-it informs the public about The bodies of the state employment service together with public organizations of disabled people design and the bodies of local authorities and the local state administrations approve norms on an allocation of vacancies for invalids at the amount at least 5 pro cents of the number of employees (if the amount of working people at least 20 persons). Thus on account of the given norm allows work on conditions of the part time work.

The employer should give the norms on allocation of workplaces for the disabled people to bodies of the state service not later than 3 months prior to the beginning the next calendar year.

The employers are obliged to provide vacancies for employment of the invalids on account of fixed quotas.

Article 403 Basic rights of state labor inspectors.

State labor inspectors have the following rights while carrying out supervising and controlling activity.

- visit all organizations of all forms, while inspecting them they shall show their certificate of a set form and standard;
- ask for and get all information necessary to execute supervising and controlling measures.
- investigate industrial accidents

- present to heads of organizations or their representatives orders aimed at
- liquidating breaches, bringing guilty parties to disciplinary responsibility or remove them from post in a set order
- hold up work in organizations, separate industrial subdivisions in case of violating demands / requirements of labor protection measures if the latter threaten employees' lives and health till the moment the threats are liquidated.
- send to courts demands / requirements to liquidate organizations or to stop an activity of their structural subdivisions because of violating labor protecting demands / requirements (in this case there shall be a conclusion of a state investigation of labor conditions).
- remove from their jobs those employees who did not pass lessons in safe methods of working, instruction on labor protection, and knowledge examination on labor protection.
- prohibit the usage and means of production for individual and collective protection of employees in case when they do not have corresponding certificates or if they do not correspond to labor protection demands / requirements.
- bring guilty parties of violating labor laws to administrative responsibility in accordance with laws of the Kyrgyz Republic, invite them to labor inspections in connection with cases and material under process as well as send cases and material about bringing guilty parties under criminal responsibility to legislative bodies, lodge claims in courts;
- address court as an expert on claims about violations of labor laws, corresponding harm caused by this violation to employees health.

Article 404 Responsibilities of state labor inspectors.

State labor inspectors while carrying out supervising and controlling activity shall observe the Constitution of the Kyrgyz Republic, the laws and other legal regulations about labor and also legal regulations are regulating activity of bodies and official of bodies of the state labor inspection.

State labor inspectors shall keep state, service, commercial and other secret protected by the law received at realization of the powers, and also after leaving the post to consider as an absolutely confidential source of any complaint on lacks or infringements of rules of the laws and other legal regulations about labor, to abstain from the telling to the employer the information about the applicant if the inspection conducts in connection with his reference and the applicant objects to inform the employer about the data of the complaint' source.

The order of realization of inspections by the officials and body of state labor inspection is determined by ratified conventions of the Kyrgyz Republic, International labor organization on the affairs of labor inspection, this Code and other laws, and also decision of Government of the Kyrgyz Republic and other legal regulations.

Article 405. Order of inspecting the organizations

In order to carry out the state supervision and control for the observance of legislation and other normative-legal labor instruments the State Labor inspectors can inspect any

organizations situated on the territory of Kyrgyz Republic independently on their organizational or legal forms.

During the inspection, the State Labor Inspector may notify the employer or his representative about his presence, if he does not consider this notification may cause the damage to the effectiveness of the inspection.

The organizations of Armed Forces, frontier services, security bodies, interior, other law-enforcement agencies, reformatories, defense industry shall be subjected to inspection by a special order, which stipulates for:

- access only for the State Labor inspectors who obtain an appropriate permission in advance;

- conducting the inspection at a fixed time;

- the limitation of conducting an inspection during maneuvers and exercises, declared periods of tension, military operations;

The special order for conducting an inspection shall be regulated according to legislation and other normative-legal instruments.

Article 406. Appealing of the decisions of the State Labor inspectors

The decisions of the State Labor inspectors may be appealed to an appropriate chief subordinated to Chief State Labor Inspector of Kyrgyz Republic in legal form.

Article 407. The liability for legislation violation and other normative-legal instruments containing the norms of Labor Law

Chiefs and other officials of the organizations which are guilty of a violation of the legislation and other normative-legal instruments containing norms of Labor Law are responsible in accordance with the legislation of Kyrgyz Republic.

Article 408. The liability for interference in the activity of State Labor inspectors

People who interfere in implementation of state supervision and control for the observance of legislation and other normative-legal labor instrument; who do not fulfill orders issued to them; who threaten with force or forcible acts the State Labor inspectors, the members of their families and their property shall be liable in accordance with the legislation of the Kyrgyz Republic.

Article 409. The liability of the State Labor inspectors

The State Labor inspectors shall be liable under the legislation of the Kyrgyz Republic for their illegal activities or negligence.

Article 410. Public control over observance of the labor legislation

The public control over observance of the labor legislation and other normative-legal instruments containing norms of Labor Law, and collective contracts, shall be implemented

by professional trade unions or another representative bodies of the employees whose interests they present.

Professional trade unions make a control over observance of the labor legislation. To implement this functions the legal and technical inspections of trade unions labor are created, authorities of which are defined in appropriate laws and regulations on professional trade unions

CHAPTER 41. INDIVIDUAL LABOR DISPUTES.

Article 411. Individual labor disputes

Individual labor disputes are considered as unsettled disagreements between an employer and an employee about the following matters:

- fixing new, or changing existing, labor conditions for employee;
- application of labor legislation, agreements, collective contract, local normative instruments of the organization, and also conditions of labor agreements (the claim disputes);

Individual labor disputes are considered as a dispute between an employer and the person who previously had labor relations with this employer and also a person who expressed his will to conclude a labor agreement with the employer, in the case the employer refuses to conclude such agreement.

An employer and an employee shall take measures to settle a dispute between each other.

Article 412. Procedure for consideration of individual labor disputes

The procedure for consideration of individual labor disputes shall be regulated by this Code, and the settlement of these disputes on the court, in addition, shall be defined by Civil Procedural Code of Kyrgyz Republic.

The peculiarities of consideration of individual labor disputes of certain categories of employees shall be regulated with legislation.

The citizens from elected paid position of public organizations shall not be subjected to the procedures for the consideration of labor disputes established by this Code.

The anticipatory release of an elected officials shall be regulated only with decision of the bodies, which have elected them.

Article 413. The bodies authorized to consider individual labor disputes

Individual labor disputes shall be considered by commissions for individual labor disputes and by courts.

An employee, on his choice, may appeal to the commission for individual labor disputes or directly to the court.

In cases where the commission for individual labor disputes has not been established in the organization, the dispute shall be considered directly in the court.

Article 414. The periods of appealing to the bodies to consider individual labor disputes

An employee has a right to address to the commission for individual labor disputes within three months from the date following when an employee found out, or is to find out on the violation of his rights, and on dismissal disputes – within one month from the date of issuance of the copy of the order on employee's dismissal (transfer) or from the date of return of his work-record card.

The claim prescribed on issues of wage's penalty, reimbursement of damages caused to life or health of employee and other payments, which are due to the employee, shall be carried out within three years.

An employer may apply to court on the disputes of reimbursement of damage caused to the organization by an employee within one year following the day of disclosure of such damage.

Limitation of actions for recovery of wage does not distributed.

The deadlines specified herein may be applied in the events of a petition by employee to the public prosecutor's office, State Labor Inspection (Labor Inspection of Trade Unions).

In case that the deadlines provided by this Article are missed due to a valid reason they may be reestablished respectively by the commission on individual labor disputes and by court.

Article 415. The establishment of commissions on labor disputes.

The commissions for labor disputes shall be established in organizations where not less than ten employees are working, by initiation of employees and/or employer and consist of equal numbers of representatives of employees and the employer. The representatives to the commission for labor disputes shall be elected by general meeting (conference) of organization or delegated by the imposing organ of employees with following approval of a general meeting (conference) of organization of the employees.

The representatives of an employer shall be appointed by the chief of the organization.

According to the decision of the general meeting, the commissions on labor disputes may be established in the structural subdivisions of the organization. These commissions are established and act on the same base as commissions for labor disputes of the organization. Commissions for labor disputes of the structural subdivisions may consider individual labor disputes within the limits of power of these subdivisions.

Commissions for labor disputes in an organization have its own stamp. Organizational-technical establishment of a commission for labor dispute (providing with equipped lodging, typewriters and another equipment, necessary literature, organization of clerical work, registration and filing of applications and cases of employees and issuance of copies of the decisions and other) shall be carried out by the employer.

Commission on labor disputes shall elect the chairman, the deputy chairman and the secretary of the commission from among its members.

Article 416. Competence of commissions for labor disputes.

A commission for labor disputes is an organ which considers individual labor disputes, which may rise in organizations excluding those disputes which are subjected to the consideration of another order of this Code and other legislation.

Individual labor disputes shall be considered by the commission for labor disputes in cases where an employee independently or together with his representative has not settled disagreements by the means of direct negotiations with employer.

Article 417. The procedure of the consideration of individual labor dispute in the commission on labor disputes

An application by an employee submitted to the commission for individual labor disputes shall be subjected to obligatory registration.

The commission on individual labor disputes shall consider individual labor dispute within ten days from the date employee submits an application.

The dispute shall be considered in the presence of the employee having submitted the application or his authorized representative. Discussion of the subject of the dispute in absence of the employee or his representative may be allowed only by his written application. In case of a failure of the employee to attend the meeting of the commission, the discussion of the application shall be postponed. Upon a second failure of the employee to appear without a valid reason the commission may decide to remove the application from discussion but that does not deprive the employee to submit the application again within the period limits established by this Code.

Individual labor disputes of employees in the age of 14-16 years old shall be considered with participation of one of their parents or a trustee.

The commission for labor disputes has the right to summon witnesses and to invite experts. The Chief of the organization shall provide necessary documents upon the demand of the commission.

The meeting of the commission on labor disputes is considered to be competent if accordingly, not less than half of the members representing employees and not less than half of the members representing employer are present.

Meetings of the commission for labor disputes shall be recorded in a protocol which is signed by the Chairman and the Deputy Chairman of the commission and certified with the stamp of the commission.

Article 418. The procedure of taking the decisions by the commission on labor disputes

The commission on labor disputes takes decisions by the secret ballot of the majority votes of those members who present on the meeting.

The following information shall be mentioned in the decisions of the commission on labor disputes:

- designation of the organization (subdivision), first and last names, patronymic, the post, profession or occupation of employee who applied to the commission on labor dispute;

- the dates of the submitting an application to the commission and consideration of the dispute, an essence of the dispute;

- first names, last names and patronymics of the members of the commission and other people who presented on the meeting;

- an essence of the decision and its basing (referring to legislation or another normative-legal instrument);

- the results of the voting.

Appropriately certified copies of the decision of commission on labor disputes shall be handed to the employee and the chief of the organization in three-day period from the date of taking the decision.

Article 419. Fulfillment of the decisions of the commission on labor disputes

A decision of the commission for individual labor disputes shall be subject to execution by an employer within three days following the date of expiration of the ten-day term provided for appealing against such a decision.

In the event of the non-execution of a decision of the commission, the commission for labor disputes shall issue to the employee a certificate which has the authority of an executive order. Such certificate shall not be issued in cases where the employee or the employer apply to the court for settlement of a labor dispute within the established period.

On the grounds of certification, issued by the commission for labor disputes and submitted within the established three months deadline from the date of its issuance, an officer of the court shall provide compulsory execution of the decision of the commission for disputes.

In cases where an employee has missed the established three months term due to a valid reason, the commission for individual labor disputes which has issued the certificate may reestablish such term.

Article 420. Appealing the decision of the commission for labor disputes and taking the consideration of labor dispute to the court

In cases where the individual labor dispute has not been considered by the the commission for individual labor disputes within the stipulated ten days deadline, an employee has right to take its consideration to the court.

A decision of the commission for individual labor disputes may be appealed by an employee or an employer in court within ten days following the day on which a copy of the decision is issued.

In case where the deadline is missed due to a valid reason it may be reestablished by the by court and considered in essence.

Article 421. Consideration of individual labor disputes in court

The court may settle labor disputes of the following applicants:

- 1) an employee or an employer in cases where they disagree with the decision of the commission for individual labor disputes, or in cases where the parties have failed to come to agreement;
- 2) an employee, appeals directly to the court having missed the commission for labor disputes;
- 3) an employee, in case where the commission for individual labor disputes does not correspond to laws and other normative legal acts;
- 4) a public prosecutor, in case where the decision of the commission for individual labor disputes contradicts the law.

The Court may directly settle individual labor disputes on the claims of the following applicants:

- 1) the employees hired by the organizations where the commission for individual labor disputes is not established;
- 2) an employee by their application for reinstatement in the job irrespective of the reasons for cancellation of the labor contract, for trasference to another job, for amendment of the date and formulation or of the reason for dismissal, for remuneration for forced absence from work or for payment of the difference in wage for the time for execution of a less paid job;
- 3) the employers on their application for reimbursement of damage caused by an employee;
- 4) an employee in the events of refusal of an employer to issue an act on an accident in the enterprise or in the events of disagreement with the content of such act;
- 5) the employees on their application for reimbursement of damage caused to their health in connection with fulfillment of labor responsibilities;
- 6) the employees on demand of employer to reconclude a limit-time labor agreement on fixed-time, in cases where the type of work and labor conditions have not been changed.

The Court may directly settle individual labor disputes:

- 1) on refusal to be employed;
- 2) on protection on labor honour, merit and business reputation of an employee and compensation, with this connection, property and moral damage;
- 3) on application of the people employed under a labor agreement by the employers who are individual people;
- 4) on the application of the employees who consider they were exposed to discrimination.

Article 422. Release of the employees from the judicial expenses

With the appeal to the court on demands following from the labor law-relations, the employees shall be released from the payment of duties and judicial expenses.

Article 423. Taking the decisions on the disputes of dismissal or transference to another job

In cases where the court finds the dismissal or transference to another job illegal, the employee shall be reinstated in their previous job by the body considering the individual labor dispute.

The body considering individual labor disputes shall take a decision about the compensation of average wage to an employee for the period of forced absence from work or a difference in earnings for all time of carrying-out of lower paid work.

On the basis of an employee's application a body considering an individual labor dispute can restrict his measures by announcing a decision about exacting above-mentioned compensations in his favor.

On the basis of an employee's application a body considering an individual labor dispute can accept a decision about changing the reason for resignation at his own request.

In the case when the formulation of dismissal is accepted wrong or not in accordance with the law, the court considering an individual labor dispute has to change it and point out a reason for sacking in exact correspondence with the formulation of this Code or other law.

In the case when the wrong formulation is a reason for dismissal creates obstacles for moving an employee to another job court takes a decision of paying an average salary to an employee for the whole period of enforced idleness.

In the case of dismissal without legal reason or with violation of set orders of dismissal or the illegal redeployment to another job the court has the right to announce a decision about compensating an employee for moral harm, caused by the specified actions. The amount of the compensation is determined by the court.

In the case when it is impossible to restore an employee to his former job the can court charge the employer or his successor to pay the employee damages of not less than 12 monthly salaries.

Article 424 Satisfying of money claims of an employee

Monetary claims are satisfied in whole amount in cases where an individual labor dispute is declared well-founded by body considering it.

Article 425 Fulfilling the decisions of being restored at a job.

The decision of court about being restored at a job of an illegally dismissed employee or about being restored at a former job of an employee who was moved to another job shall be fulfilled immediately.

In the case where the employer delays the implementation of this decision, the body making the decision charges the employer to pay the employee an average monthly salary or difference in salary for the period of delay.

Article 426 Restricting of taking back the money paid in accordance with the decision of court considering an individual labor dispute.

Taking back the money paid in accordance with the decision of court considering an individual labor dispute is possible only in cases when the decision was made on the basis of false information or false documents.

Article 427 Some specific features of considering an individual labor dispute of definite categories of employees.

Individual labor disputes involving managerial staff, elected, appointed or established in their posts by the president of the Kyrgyz Republic, the Supreme Council of the Kyrgyz Republic, the Prime minister of the Kyrgyz Republic on the point of dismissal, changing dates, or formulation of reason for dismissal, moving to another job, paying for enforced idleness as well as questions of disciplinary penalties are considered in accordance with the law.

CHAPTER 42. COLLECTIVE LABOR DISPUTES

Article 428 Basic concepts

A collective labor dispute – unregulated disagreements between employees (their representatives) and employers (their representatives) in connection with establishing and changing the current labor conditions (salary included), concluding, changing and fulfilling of the collective agreements, contracts and also the case when an employer refuses to take into account the opinion of an elected representative body of employees while discussing and accepting regulations containing the standards of labor rights.

Conciliation procedures are considering collective labor disputes in order to settle them by a conciliation commission, by an intermediary and/or in labor arbitration.

The starting point of the collective labor disputes – the day of announcing that all/parts of employees' claims (or their representatives) are rejected or non-announcing by the employer (or his representative body) his decision in compliance with article 430 of this Code. It may also be the date of drawing up the statement of disagreements in the course of collective negotiations.

Strike is a temporary voluntary refuse of labor duties (complete or partial) by employees aimed at settling collective labor disputes.

Article 429 Moving forward claims of employees and their representatives.

The right of moving forward claims belongs to employees and their representatives in compliance with articles 29-31 of this Code.

The claims are passed at a meeting (conference) of the employees.

The meeting of employees is considered to be competent if more than one half of the employees are present. The conference requires presence of not less than two thirds of elected delegates.

The employer shall ensure available premises for a meeting (conference) of the employees or their representatives and must not create obstacle to conducting it.

The claims of trade unions and their associations are moved forward and sent to corresponding sides of social partnership.

Article 430. Considering claims of employees, trade unions and their associations.

Employers shall consider employee's claims. The employer informs the representative body of employees about his/her decision in written form within three days following the date of receiving the claims.

Article 431 Conciliation procedures

The order of setting collective labor disputes consists of 3 steps: considering collective labor disputes by a conciliation commission, considering collective labor disputes with the help of an intermediary and in labor arbitration.

Considering collective labor disputes by a conciliation commission is a necessary step. If both sides of a collective labor disputes do not come to an agreement it is sent to be considered with the help of an intermediary or to a labor arbitration.

No counterparts of the collective labor disputes have the right to avoid participating in conciliation commission, an intermediary or labor arbitration shall use every opportunity to settle collective labor disputes provided by the law.

Conciliation procedures are taken within the term provided by the Code.

If necessary this period may be prolonged in accordance with agreement between both counterparts of collective labor disputes.

Article 432 Considering the collective labor disputes by a conciliation commission.

A conciliation commission is formed within 3 days following the starting point of collective labor disputes. The decision of forming this commission is documented in accordance with the order of the employer and a representative body of employees.

A conciliation commission is formed from representatives of both sides of the collective labor dispute on a parity basis.

Parties of a collective labor dispute have no right to avoid forming a conciliation commission or working on it.

The employer shall create necessary conditions for a conciliation commission to work.

Collective labor disputes shall be considered by a conciliation commission within 5 days following the day of issuing the order of its formation. This period may be prolonged in accordance with mutual agreement of both sides. This shall be documented in a statement.

The decision of a conciliation commission is accepted in accordance with the agreement of both sides of collective labor dispute, is documented in a statement and it is obligatory for both sides to be executed within the period set by the decision of a conciliation commission. In a case of disagreement with the decision of a conciliation commission both sides of collective labor dispute continue conciliation procedures with the participation of an intermediary and/or in labor arbitration.

Article 433 Considering the collective labor disputes with participation of an intermediary.

After conciliation commission wrote a statement of disagreements, counterparts of the collective labor dispute could invite an intermediary within the period of three working days. In case the sides did not come to an agreement about the candidate for an intermediary within three days they start forming labor arbitration.

The scheme of considering a collective labor dispute with participation of an intermediary is determined by an agreement between both sides of a collective labor dispute with participation of an intermediary.

An intermediary has rights to send an inquiry and receive necessary documents and information concerning the dispute.

Considering a collective labor dispute with the participation of an intermediary may last up to 7 days following the day of its appointment and finishes with acceptance of a mutual decision in a written form or compiling a statement of disagreements by both sides of a collective labor dispute.

Article 434 Considering the collective labor disputes in labor arbitration.

Labor arbitration is a temporary body to consider a collective labor dispute and is formed in cases when the sides of this dispute conclude an agreement in a written form about the obligatory fulfillment of its decision.

Labor arbitration is formed by the counterparts of a collective labor dispute within three working days following the day when a conciliation commission or an intermediary stop considering the collective labor dispute.

The procedure of forming labor arbitration, the number and the names of its members, its duties and rights are documented by a corresponding decision of the employer and representative body of employees.

A collective labor dispute is considered in labor arbitration with the participation of both sides within the period of five days following the day of its formation.

Labor arbitration considers appeals by both sides in a collective labor dispute; gets necessary documents and information concerning this dispute; if necessary informs the State authorities and local self-governing bodies about the possible social consequences of a collective labor dispute; work out recommendations about the essence of collective labor dispute.

Recommendations of labor arbitration are sent to both sides of the collective labor dispute in a written form.

Article 435 Guarantees in a case of settling the collective labor dispute.

Members of conciliation commissions, and labor arbitrators are free from their main jobs for the period of participating in settling the collective labor dispute with their salary preserved for the period not longer than three months up to one year.

Representatives of employees or their associations participating in settling a collective labor dispute cannot incur a disciplinary penalty; they cannot be moved to another job or sacked on the initiative of an employer without advance consent of the representative authority.

Article 436 Evasion from participating in conciliation procedures.

In case of evasion from participating in forming or working on a conciliation commission by any side of the collective labor dispute, this collective labor dispute is sent to be considered in labor arbitration.

In case the employer evades forming labor arbitration and in case the employer refuses to fulfill recommendations of labor arbitration the employees can start a strike.

Forming labor arbitration in organizations with strike prohibited or restricted by law is obligatory to observe.

Article 437 Agreement in settling collective labor dispute

An agreement achieved by the sides of collective labor dispute in the course of settling the collective labor dispute is documented in writing and is obligatory for both sides of collective labor dispute to observe.

The fulfillment of the agreement is under control of both sides of a collective labor dispute.

Article 438 Right to stage a strike

In accordance with article 30 of the Constitution of the Kyrgyz Republic employees have a right to stage a strike as one of the ways of the collective labor dispute.

In a case where conciliation procedures do not lead to the settlement of a collective labor dispute or in the case where the employer evades conciliation procedures and does not fulfill agreements achieved in the course of settling a collective labor dispute, the employees or their representatives have a right to arrange a strike.

Taking part in strike action is voluntary process. Nobody can be forced to take part, or refuse to take part, in a strike.

People forcing employees to take part in or to refuse of taking part in strike actions bear disciplinary, administrative, criminal responsibility according to this Code or other laws.

Representatives of the employer have no right to arrange strike actions or take part in it.

Article 439 Announcing a strike

The decision to announce a strike is taken at the meeting (conference) of employees of an organization (branch, representation or other exclusive structural subdivision) on the suggestion of representative body of employees previously empowered by employees to settle a collective labor dispute. The decision to announce a strike adopted by a trade union (association of trade unions) is approved by a meeting of employees for every organization.

A meeting of employees is considered competent in case when at least two thirds of employees (conference delegates) are present at it.

The employer shall give premises to hold a meeting of employees and has no rights to create obstacles to conduct it.

The decision is adopted in the case when it is voted for by not less than one half of employees present at the meeting. If it is impossible to hold a meeting of employees, a representative body of employees has the right to approve its own decision by collecting signatures in favor of taking strike actions, of more than one half of employees.

After 5 calendar days of working of a conciliation commission, employees may stage a one hour warning strike and the employer shall be warned about it in writing not less than 3 days before it.

While staging a warning strike the body leading it shall ensure the minimum of works (services) in accordance with this Code.

The employer shall be warned in writing about the starting point of a forthcoming strike at least 10 calendar days before.

The decision about staging a strike shall contain; a list of disagreements between both sides of a collective labor dispute causing the announcement and staging of the strike; the date and time of its beginning, its supposed duration, the number of participants; the name of the leading body, the number and names of the representatives of employees empowered to take part in conciliation procedures, suggestions about the minimum of works (services) done in the organization, branch, representation, other exclusive structural subdivisions for the period of staging the strike.

Article 440 Body leading a strike

A strike is led by a representative body of employees. It has right to hold a meeting of employees, to get from the employer all information concerning employee's interests, invites specialists to prepare conclusions about the questions under discussion.

The body leading a strike has right to hold up a strike. To renew a strike it is not necessary to consider the collective labor dispute in conciliation commission or labor arbitration for a second time. The employer shall be warned about renewal of a strike not later than 3 days before it.

Article 441 Duties of conflicting sides during a strike

During a strike conflicting sides shall continue to settle a conflict by conducting conciliation procedures.

The employer, executive power authorities, local self-governing bodies and body leading a strike shall take measures to ensure social order, good state of preservation for property of the organization (branch, representation, other exclusive structural subdivision) and employees as well as machinery and equipment where a stoppage will threaten people's lives and health.

A list of minimum necessary work (service) in organizations, branches, representations which activity is connected with people's security, ensuring their health and vital interests of a society in every branch of economics is worked out and confirmed by corresponding executive power authorities who are due to coordinate and regulate activity in corresponding trade unions. In cases where there are several trade unions in a branch (sub branch) of economy a list of minimum necessary work (service) is confirmed in coordination with all trade unions working in the branch (sub branch) of the economy. The procedure of working out and confirming a list of minimum necessary work (service) is determined by the Government of the Kyrgyz Republic.

Minimum necessary work (service) in an organization, branch, representation is determined by agreement with sides of a collective labor dispute together with local self-governing bodies on the basis of lists of minimum necessary work (service) within 5 days following the day of announcing a strike. Kinds of work (service) included into a list of minimum necessary work (service) shall be explained by possibility of causing harm to people's lives and health. Work (service), which is not provided by corresponding lists of minimum necessary work (service) cannot be included into a list of minimum necessary work (service) in organizations, branch, representation.

The decision of a body, determining minimum necessary work (service) in an organization, branch, representation may be appealed against by sides of a collective labor dispute in a law court.

In case where the minimum necessary work (service) is not provided a strike can be announced illegal.

Article 442 Illegal strikes

The following strikes are considered illegal and are not allowed to be staged;

a) during a period of declared martial law or state of emergency or other measures in accordance with laws of state of emergency; in organizations and bodies of Armed Forces of the Kyrgyz Republic, various military, martial or other formations and organizations, dealing with defense of the country, state security, breakdown and rescue work, search and rescue work, fire prevention work, foreseeing and liquidating natural disasters and situations of emergency in law-enforcement bodies; in organizations serving especially dangerous kinds of means of production equipment, at the station of ambulance and extreme medical help.

b) in organizations, connected with providing viability of people (power-, heating-, water-, gas-providing services, air, railway and navy transport, communications, hospitals), in case when strikes cause threat to defense of the country and state security, people's lives and health. The right to stage a strike may be restricted by the law. A strike is illegal in case when it is announced without dates, procedures provided by this Code even if it has a collective labor dispute.

The decision about announcing a strike illegal is taken by the Supreme Court of the Kyrgyz Republic, regional courts, municipal courts, courts of autonomous regions on the basis of the statement made by the employer for public prosecutor.

The decision of court is brought to employees notice through the body leading a strike, which shall immediately inform members of a strike about the decision of court.

The decision of a court announcing a strike as illegal shall be immediately executed. Employees shall stop a strike and start working not later than the following day after the issue of the court decision was handed to body leading a strike.

In case when people's lives and health are threatened a court has right to put off a strike for a period of 30 days and to delay the strike process for the same period. In cases especially important for vital interests of the Kyrgyz Republic of its separate territories the Government of the Kyrgyz Republic has the right to delay a strike till the questions are solved in the court but not longer than the period of 10 calendar days.

Article 443 Guarantees and legal conditions of employees under strike

Participating in a strike cannot be viewed as violation of labor disciplines and be a reason for canceling a labor treaty, excluding cases of non-stop a strike in accordance with part six of article 442 of this Code. It is prohibited to undertake measures of disciplinary responsibility to employees participating in a strike, excluding cases provided by part six of Article 442 of this Code.

For the period of staging a strike all employees' jobs and posts are preserved.

The employer has the right not to pay salary for the period of employees participating in a strike excepting employees occupied in minimum necessary work.

Some compensation fees to employees participating in a strike are provided by a collective treaty, agreements reached in the course of settling a collective labor dispute.

Employees not participating in a strike who cannot do their work because of a strike and who announce their being idle in writing may have their salary in amount according to the rules provided by this Code.

Fees to employees participating in a strike may be paid on favorable forms in accordance with collective treaty, agreement or agreements reached in the course of settling a collective labor dispute.

Article 444 Prohibition of lock-out

In the course of regulating a collective labor dispute including staging a strike lock-out is prohibited. Lockout is a dismissal of an employee on the initiative of the employer in connection with his participating in a collective labor dispute or in a strike.

Article 445 Responsibility for evasion from participating in conciliation procedures and violating treaties reached in the course of conciliation procedures.

Representatives of the employer evading receiving claims from employees and participating in conciliation procedures included not giving premises for holding a meeting (conference) and preventing a strike, incur a disciplinary penalty in accordance with this Code or an administrative penalty in accordance with the laws of the Kyrgyz Republic.

Representatives of both sides of a collective labor dispute guilty of not executing duties on agreement reached as a result of conciliation procedures are incurred to an administrative penalty provided by the laws about administrative offences.

Organizations serving especially dangerous kinds of means of production equipment, at the station of ambulance and extreme medical help.

b) in organizations, connected with providing viability of people (power-, heating-, water-, gas-providing services, air, railway and navy transport, communications, hospitals), in case when strikes cause threat to defense of the country and state security, people's lives and health. The right to stage a strike may be restricted by the law. A strike is illegal in case when it is announced without dates, procedures provided by this Code even if it has a collective labor dispute.

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In case when people's lives and health are threatened a court has right to put off a strike for a period of 30 days and to delay the strike process for the same period. In cases especially important for vital interests of the Kyrgyz Republic of its separate territories the Government of the Kyrgyz Republic has the right to delay a strike till the questions are solved in the court but not longer than the period of 10 calendar days.

Article 446 Responsibility of employees for illegal strikes.

Employees starting a strike or those who do not stop it, the following day after a body leading the strike being informed about the fact that a strike is declared illegal, or put off, or held up by a decree of a court may incur disciplinary penalty for violating labor discipline.

The representative body of employees who announce and do not stop a strike after it has been declared illegal shall compensate the employer for the losses incurred caused by an illegal strike at its own expense for the amount determined by the law.

Article 447 Document keeping in the course of settling a collective labor dispute.

Actions of the sides of collective labor dispute, agreements and recommendations undertaken in connection with settling this conflict are drawn up in statements by representatives of the sides of a collective labor dispute, conciliation bodies and the body leading a strike.

CHAPTER 43. RESPONSIBILITY FOR A VIOLATION THE LABOR LEGISLATION AND OTHER REGULATIONS CONTAINING STANDARDS OF THE LABOR LAW.

Article 448 Responsibility for violating labor legislation and other normative legal deeds, containing standards of labor law

People guilty for violating labor legislation and other normative legal regulations, containing standards of the labor law incur disciplinary penalties in accordance with this Code and also incur legislative, administrative and criminal penalties in accordance with the law.

President of the Kyrgyz Republic

A. Akaev