

ADDITIONAL GUARANTEES IN THE FIELD OF EMPLOYMENT OF SOCIALLY VULNERABLE GROUPS OF THE POPULATION

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INTRODUCTION

In recent years, systematic efforts have been carried out to strengthen social protection of the population and to expand the scope and types of social services provided by the state to citizens.

In particular, the newly adopted version of the Constitution establishes that the rights of incapacitated and lonely elderly people, persons with disabilities, and other socially vulnerable groups of the population are under state protection, which necessitates reforming this sphere based on a unified approach.

Specifically, in order to ensure the fulfillment of the constitutional obligations of the state to assist persons with disabilities in employment and education, it is required to introduce an effective system for coordinating the measures being implemented in this area.

Accordingly, taking into account the principles of a “social state” declared in the Constitution, and with the aim of unconditionally ensuring citizens’ rights and interests in the field of social protection, radically improving the quality of social services provided to the population, and introducing a completely new management system based on advanced international standards, the Decree of the President of the Republic of Uzbekistan No. PF-82 dated June 1, 2023 “On Comprehensive Measures to Provide Quality Social Services and Assistance to the Population and Establish an Effective Monitoring System” defined the main directions of targeted social protection of the population by the state.

At the same time, the National Agency for Social Protection under the President of the Republic of Uzbekistan was established, along with its regional departments in the Republic of Karakalpakstan, regions, and the city of Tashkent, as well as “Inson” Social Service Centers in districts (cities).

However, the measures for employment of socially vulnerable groups of the population cannot be fully ensured through the norms established by the Law of the Republic of Uzbekistan “On Employment of the Population,” which entered into force on January 21, 2021, and the Labor Code, which entered into force on April 30, 2023 (hereinafter referred to as the Labor Code).

Moreover, the existing subordinate regulatory legal acts fail to fully ensure the constitutional obligation of the state to assist persons with disabilities in employment as stipulated in the Basic Law.

Based on the above, there is a need to analyze and further improve the sphere of employment of socially vulnerable groups of the population.

First of all, defining the concept of state guarantees in employment, state guarantees in employment represent a set of measures undertaken by the state to facilitate employment of persons who are in need of social protection, experience difficulties in finding employment, and are unable to compete on equal terms in the labor market.



This concept is not explicitly defined in legislation. However, Uzbek economists have proposed various approaches to explaining the essence and content of the concept of “employment.”

For example, according to Q.Kh. Abdurakhmonov, employment is an activity of citizens that is not prohibited by law, aimed at satisfying personal and social needs, and brings them wages or labor income.

Economist Sh.R. Kholmuminov, in his scientific works, pays special attention to the issues of rational employment of the population, defining rational employment as achieving market equilibrium between supply and demand for labor. In such a case, a permissible (natural) level of unemployment emerges.

A broader definition of employment has been provided by local economists D. Rakhimova, H. Abulqosimov, O. Abdurakhmonov, K. Kattaev, and R. Rozmetov, who clarify the purpose and subject of these relations. According to them, employment as an economic category reflects socio-economic relations arising in the process of providing the able-bodied population with workplaces, that is, jobs, for the purpose of satisfying personal and social needs and realizing personal interests in earning income through labor activity.

The analyzed category of “employment” operates within the boundaries of a developed market. In this context, employment does not include any type of activity, but only those types that encompass conditions related to the development of labor force, entry into and exit from the labor market, and similar factors.

Articles 94–102 of the revised Labor Code of the Republic of Uzbekistan regulate employment relations.

According to these provisions, everyone has the right to freely choose a workplace by directly applying to an employer, through free assistance of labor authorities, or through the services of private employment agencies.

In addition, a new provision on state guarantees in employment has been introduced into the Code, according to which the state guarantees the following:

- freedom to choose the type of employment, including work under various labor regimes;
- protection against unlawful refusal to hire, unlawful transfer to another job, suspension from work, and termination of an employment contract;
- free assistance in selecting suitable employment and job placement;
- equal opportunities for everyone in acquiring a profession and employment, labor and employment conditions, remuneration, and career advancement;
- assistance in vocational training, retraining, and advanced training for job seekers and unemployed persons;
- compensation of expenses incurred due to voluntary relocation for work upon recommendation of labor authorities;
- the opportunity to participate in paid public works.

Below is a detailed discussion of the above-mentioned types of state guarantees in employment.

1. Guarantee of Freedom to Choose the Type of Employment, Including Work Under



Various Labor Regimes

Ensuring freedom to choose the type of employment, including work under various labor regimes, is established at the constitutional level in Article 42 of the Constitution of the Republic of Uzbekistan.

According to this article, everyone has the right to decent work, free choice of profession and type of activity, safe and hygienic working conditions, fair remuneration without discrimination and not lower than the minimum wage established by law, as well as protection against unemployment in accordance with the law.

In addition, the Law of the Republic of Uzbekistan “On Employment of the Population” establishes voluntariness and freedom of choosing employment as a fundamental principle.

2. Guarantee of Protection Against Unlawful Refusal to Hire, Unlawful Transfer, Suspension, and Termination of Employment Contracts

Part three of Article 42 of the Constitution of the Republic of Uzbekistan prohibits refusal to hire, dismissal, or reduction of wages of women due to pregnancy or the presence of children.

According to Article 392 of the Labor Code, if an employer refuses to hire an applicant, they must provide a written justification for the refusal, signed by the authorized official, to a pregnant woman or a person with children upon request within three days. Failure to provide written justification does not prevent the applicant from appealing the refusal.

Furthermore, Article 119 of the Labor Code establishes specific conditions prohibiting unlawful refusal to hire.

Unlawful refusal to hire includes:

- violation of requirements prohibiting discrimination in labor and employment;
- refusal to hire persons who were invited to work by the employer;
- refusal to hire persons whom the employer is legally obligated to employ (including those referred within the established minimum quota of jobs, persons subject to reinstatement, etc.);
- refusal to hire due to pregnancy or the presence of children;
- refusal to hire due to criminal record, including expunged or removed convictions, except as provided by law, or due to the criminal record of close relatives;
- other cases provided by law.

If employment is refused, the employer must provide a written explanation for the refusal within three days upon request. Refusal to provide such written justification does not prevent the applicant from appealing against unlawful refusal.

According to Article 120 of the Labor Code, a person who believes that they have been unlawfully refused employment may appeal the refusal in the prescribed manner, including filing a claim in court for provision of employment, compensation for material damage, and compensation for moral harm.



In disputes, the burden of proving the legality of refusal to hire lies with the employer.

3. Guarantee of Free Assistance in Selecting Suitable Employment and Job Placement

First, it should be noted that suitable employment for persons seeking their first job without professional training refers to paid work, including temporary work, that does not require prior professional training, taking into account age and other characteristics.

For persons who have lost employment and income, suitable employment is work that corresponds to their professional training, age, health condition, work experience, and previous profession.

Employment cannot be considered suitable if:

- it requires relocation to another place of residence;
- it is located far from the permanent residence and transportation access is inconvenient, as determined by local labor authorities;
- refusal is justified by health, age, or other valid contraindications.

If, after the period of unemployment benefits ends, it is not possible to provide employment according to the profession, work requiring a change of profession may be considered suitable, taking into account abilities, health, previous experience, and accessible training options.

Each job seeker registered with local labor authorities is offered suitable employment, if available, considering their qualifications, age, health, and work experience.

For socially vulnerable groups, suitable employment is sought among existing vacancies or reserved jobs.

Job offers and placements are made only for suitable employment and are recorded in the “Employment Service” information system.

4. Guarantee of Equal Opportunities in Employment, Working Conditions, Remuneration, and Career Advancement

Article 4 of the Labor Code establishes equality of labor rights and prohibition of discrimination in labor and employment as a fundamental principle.

Discrimination in labor and employment based on gender, age, race, nationality, language, social origin, property status, official position, place of residence, religion, beliefs, membership in public associations, or other factors unrelated to professional qualities and work results is prohibited.

Differentiation, exclusion, preference, or restriction based on specific job requirements or aimed at providing additional protection to socially vulnerable persons (such as persons with family responsibilities, minors, persons with disabilities, pregnant women, etc.) is not considered discrimination.



Justified differences in labor regulation may depend on the nature of labor relations, workplace conditions, legal status of the employer, sector-specific characteristics, psychophysiological features, family responsibilities, and other objective factors.

A person who considers themselves discriminated against may appeal in the prescribed manner, including filing a claim in court for elimination of discrimination and compensation for material and moral damage.

According to Article 244 of the Labor Code, ensuring equal pay for men and women for work of equal value is one of the main guarantees in the field of remuneration.

