



GUIDANCE ON
WAIVERS AND MODIFICATIONS OF THE
PROVISIONS OF THE AIFC ACT
NO. GR0009 OF 2017

ON QUALIFICATIONS NECESSARY FOR
EMPLOYMENT IN THE AIFC

February, 2025

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Introduction

This Guidance outlines the procedures for AIFC Participants (hereinafter – Applicant) to apply for waivers or modifications to the provisions of the AIFC Act on Qualifications necessary for employment in the AIFC (hereinafter – the AIFC Qualification Rules). It applies specifically to Foreign Employees who are not engaged in a Controlled Function or a Designated Function as defined under rules 2.2 and 2.3 of the AIFC General Rules (“Foreign Employee”). The Applicant is the Private company that attracts the Foreign Employee and submits the waiver or modification request on their behalf.

It also sets out the basis upon which the AIFC Authority may grant waivers or modifications of the AIFC Qualification Rules to AIFC Participants in relation to such Foreign Employees.

For the purposes of this Guidance:

Relevant provision means a provision of the AIFC Qualification Rules.

A **waiver** means that one or more relevant provision do not apply to the Foreign Employee.

A **modification** means that one or more relevant provisions apply to the Foreign Employee with the specific modifications stated in the written notice issued by the AIFC Authority. Modifications may be subject to conditions.

AIFC Qualifications Rules

The **AIFC Qualification Rules** outline general criteria for high qualifications that foreign citizens and stateless persons must meet to be eligible for employment in the AIFC:

Section A: Education

- (a) An undergraduate degree directly relevant to the proposed employment in the AIFC; or
- (b) A qualification of equivalent standing to an undergraduate degree directly relevant to the proposed employment in the AIFC.

Section B: Experience

- (a) At least 3 years experience in a managerial position directly relevant to the proposed employment in the AIFC; or
- (b) At least 5 years experience in a non-managerial position directly relevant to the proposed employment in the AIFC.

For the purposes of this Guidance, an **undergraduate degree** constitutes the initial tier of university-level education programs, which may include bachelor's degrees, associate degrees, certificates, and diplomas.

The AIFC Authority's power to grant waivers

The AIFC Authority has the power to grant waivers and modifications to the provisions of the AIFC Qualification Rules regarding Foreign Employees of the AIFC Participants, provided these employees are not carrying on a Controlled Function or a Designated Function as defined under rules 2.2 and 2.3 of the AIFC General Rules.

Basis for granting a waiver or modification

On the application of the Applicant, the AIFC Authority may issue a written notice, specifying that one or more relevant provisions of the AIFC Qualification Rules:

- (a) do not apply to the Foreign Employee; or
- (b) apply to the Foreign Employee with the modification stated in the notice.

The application for a waiver or modification must provide compelling reasons supported by the following perspectives:

- (a) a legal perspective. Justify why is the waiver or modification is necessary as a matter of law?

(b) a business perspective. Explain why compliance with the existing provision is not feasible within the context of the local talent market?

It is important to note that a waiver or modification cannot be granted solely on the basis of inconvenience.

Waiver or modification considerations

Applications for waivers or modifications are not granted automatically. The AIFC Authority evaluates each application on its merits, taking into consideration the specific circumstances, qualifications, and relevant factors associated with the request.

A waiver or modification may only be granted if the applicant demonstrates exceptional reasons and circumstances. The AIFC Authority consider granting a waiver or modification in accordance with the Criteria for Issuance of Waivers and Modifications of Qualification Requirements for Foreign Employees approved by the Management Board of the AIFC Authority (“Criteria”) when evaluating applications for waivers and modifications.

These Criteria outline the exceptional circumstances under which a waiver or modification may be granted, ensuring that decisions are consistent with the broader objective of promoting a competitive and innovative business environment within the AIFC.

The AIFC Authority may require a reasonable period to review and assess each application, thoroughly, allowing for a detailed evaluation of its merits and any associated factors.

If a waiver or modification is granted, the AIFC Authority may impose conditions to ensure compliance with relevant regulations or to address specific concerns.

Renewals or extensions

If AIFC Participant wishes to renew an existing waiver or modification in relation to the Foreign Employee, a new application must be submitted. The application should clearly demonstrate, once again, the legal or business necessity for the renewal or extensions.

Varying and withdrawals of waiver or modification

After a waiver or modification has been granted, the AIFC Authority may:

- (a) vary the waiver or modification, either on its own initiative or upon application by the AIFC Participant;
- (b) Withdraw the waiver or modification at any time.

In deciding whether to withdraw a waiver or modification, the AIFC Authority will evaluate:

- (a) whether the conditions and circumstances that justified the granting of the waiver or modification are no longer satisfied, and
- (b) whether the waiver or modification remains appropriate in the current context.

Notification of the AIFC Authority's decisions

The AIFC Authority will make a decision on an application submitted by an AIFC Participant (applicant) including decisions to refuse the application, as soon as practicable. Once the decision is made, the AIFC Authority will notify the applicant in writing.

The notice may include:

- (a) confirmation that the decision takes effect on the day after the notice is issued; or
- (b) specification of a different effective date for the decision, if applicable; or
- (c) details of any conditions, restrictions or limitations attached to a granted waiver or modification; or
- (d) the period for which a waiver or modification is granted, if applicable.

The notice is not required to include, or be accompanied by, an explanation of the AIFC Authority's reasons for the decision.

Giving false or misleading information to the AIFC Authority

An AIFC Participant (applicant) must not:

- (a) make a statement, or provide information to the AIFC Authority, whether orally, in writing, or by any other means, that is false or misleading in a material particular; or
- (b) submit a document to the AIFC Authority that is false or misleading in a material particular; or
- (c) conceal information or document if the concealment is likely to mislead or deceive the AIFC Authority.

Language

All communications with the AIFC Authority must be conducted in English.

Documents submitted to the AIFC Authority must be in English or accompanied by a certified translation into English, or into Kazakh or Russian upon request of the AIFC Authority.

How to apply for a waiver or modification?

To apply for a waiver or modification, AIFC Participants must complete the Waivers or Modification form (Annex 2) and submit it to the AIFC Authority via email at: **expat@aifc.kz** or deliver it to the Expat Centre of the AIFC Authority at the following address: Kazakhstan, **Astana, 55/18 Mangilik El Avenue, Pavilion C3.3.**

In addition to the completed the Waivers or Modifications application form, the application must include a Consent form (Annex 3), a Foreign Employee's current Curriculum Vitae (CV), a copy of their passport, and a portfolio with relevant certifications and accreditations. These supporting documents are essential for the AIFC Authority to fully assess the application and determine whether the waiver or modification may be granted.

Furthermore, the payment of the required fees must be paid by Applicant at the time of application. The amount of the fee is determined according to the official Price List for the relevant year, as approved by the Management Board of AIFC Authority. The fee is non-refundable and is due regardless of the outcome of the decision on application.

How waiver and modification applications are processed

All submitted applications will be acknowledged by the AIFC Authority upon receipt. If additional information is required, the AIFC Authority will contact the applicant to request further details to support the decision-making process.

Most waivers and modifications are granted for a set period and will cease to apply thereafter. Specifically, the waiver will remain valid for one year. After expiration of the one year term, a new application must be submitted if an extension of the waiver is being considered by the applicant. Once the Written notice is issued, AIFC Participants may proceed with applications for work visas or temporary residence permit for Foreign Employees.

If the AIFC Authority refuses an application, the decision will be provided in the Written notice. Applicant may resubmit a revised application at any time ensuring all relevant information is included.

If the Foreign Employee's document (visa or temporary residence permit) expires while the AIFC Authority is reviewing the application, a visa or temporary residence permit for the Foreign Employee may be issued for up to 3 months.

AIFC Participants must thoroughly review and adhere to all terms of waiver and modification

application process, to ensure full compliance with applicable migration requirements.

AIFC Participants acknowledge and accept full responsibility for any risks or consequences related to migration issues of the Foreign Employee arising while waiver or modification application is under review by the AIFC Authority.

Disclaimer

This document is intended as general guide and should be read in conjunction with the relevant legislation, including, Constitutional Statute of the Republic of Kazakhstan on the Astana International Financial Centre, the AIFC Qualification Rules and any other applicable regulations and enabling rules, which may be subject to change without prior notice.

The information in this Guidance is non-binding and is not intended to constitute legal advice. It should not be treated as a substitute for tailored professional advice addressing specific circumstances or legal requirements.

Where necessary, further advice from a qualified professional may be required.

Principles for Submitting an Application on a Waiver or Modification of the AIFC Qualification Rules

AIFC Authority will place certain expectations on AIFC Participant applying for a waiver or modification to the AIFC Qualification Rules in relation to the Foreign Employee.

To improve the likelihood of a successful application, it is recommended that applicants present their arguments clearly and comprehensively.

Applicants are expected to conduct appropriate research on the following areas:

- ✓ The intention behind the provisions in question and the regulatory outcomes that the provisions aim to achieve;
- ✓ Whether there is any precedent relief which may have been issued that supports this application, whether that be in the AIFC or any other regulatory jurisdiction; and
- ✓ The risks associated with the relief being sought and how you plan to mitigate such risks.

In the application AIFC Participant must:

- ✓ Provide clear and substantiated reasons for requesting the waiver or a modification;
- ✓ Explain the impact of granting the waiver or modification to the Foreign Employee; and
- ✓ In the case of an application to modify a provision, propose specific wording for the modification.

Application form on Waivers or Modifications

Application No.:

Date:

This form is to be completed by AIFC Participants seeking a waiver or modification to the AIFC Act on Qualifications necessary for employment in the AIFC. The application applies to foreign employees who are not carrying on a Controlled Function or a Designated Function under rules 2.2 and 2.3 of the AIFC General Rules.

Recommendations:

- ✓ Do not leave any response-cells empty.
- ✓ If certain questions are better answered in an attachment, please indicate this in the corresponding cell.
- ✓ The use of acronyms shall be avoided. If you do need to use acronyms, then they must be defined.
- ✓ To ensure clarity and consistency, capitalize the first letter of words and terms defined in in the Glossary of Legislation of the AIFC (GLO).

You are advised to retain a copy of the completed form and all relevant attachments for the records.

1. Applicant details

Company Name & BIN:

Representative:

Contact details:

*(e-mail address,
telephone number, etc.)*

2. Declaration by the applicant

I declare that, to the best of my knowledge and belief, having made due inquiry, the information provided in this form, its supplements and any attached supporting documents is complete and accurate.

I acknowledge that the Astana International Financial Centre Authority JSC ("AIFC Authority") may request additional information including but not limited to, personal educational, employment and financial details, if necessary, to adequately assess the fitness and propriety of the AIFC Participant.

I consent to the AIFC Authority contacting any employers, educational institutions, professional organisations or any other organisation, to verify any information contained in this form.

I confirm that I have the authority to make this application, to declare as specified above and sign this form for, or on behalf of, the applicant.

I also confirm that I have authority to give the consent specified above.

I understand that any personal data provided to the AIFC Authority will be used to discharge its regulatory functions under the AIFC Data Protection Regulations, and other relevant legislation and may be disclosed to third parties for those purposes.

I confirm that all documents submitted as part of this application, whether physical or electronic, become property of the AIFC Authority.

Name & Position Authorised Signatory:

Signature of Authorised Signatory & Date:

3. Application Details

Provide details about AIFC Participant's ordered activity & subject of regulation, total number of employees & the number of foreign nationals employed.

State the specific provision of the AIFC act on Qualifications necessary for employment in the AIFC to which this application pertains to:

(For example, Section A: Education or Section B: Experience)

Provide complete information about the individual for whom the waiver or modification is needed:

(Full name, nationality, education & experience background, proposed position, etc.)

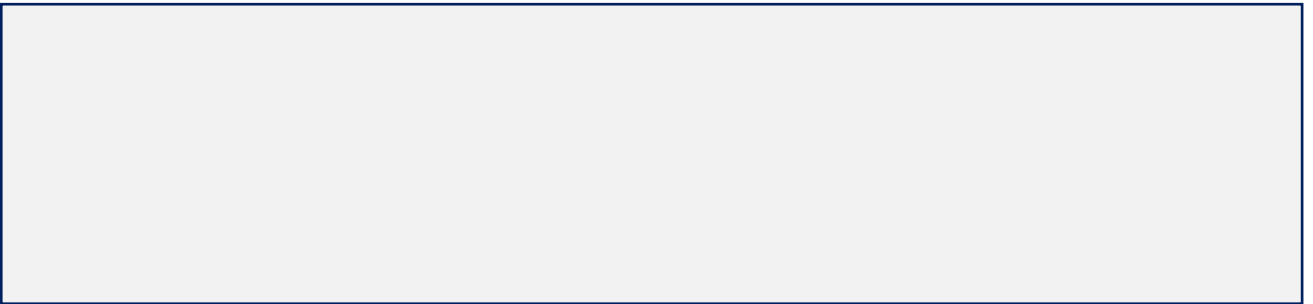
State the specific provision of the AIFC act on Qualifications necessary for employment in the AIFC to which this application pertains to:

Provide a concise explanation from both legal and business perspectives of why your company requires this waiver or modification:

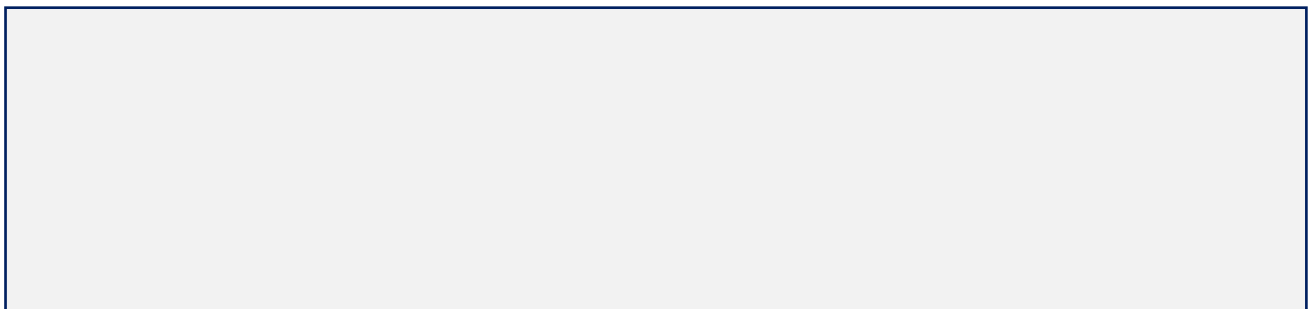
Describe the desired outcome of the proposed waiver or modification:



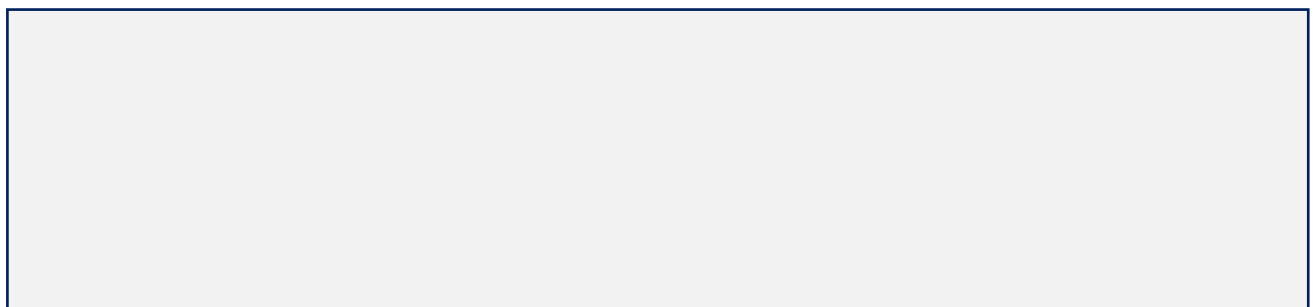
Provide a succinct explanation of the impact the AIFC act on Qualifications necessary employment in the AIFC has on your company:



Identify all risks that a waiver or modification to the AIFC act on Qualifications necessary for employment in the AIFC, if granted, might create:



Describe how you propose to mitigate the risks identified in above and if there should be any conditions included with your waiver or modification request:



Indicate the supporting documents to accompany this application form:

Document 1, date of issuance, description, etc.

Please return the completed application form to Expat Centre team of the AIFC Authority and attach relevant supporting documents.

CONSENT FORM FOR THE PROCESSING OF PERSONAL DATA

This Consent Form is issued in accordance with the AIFC Data Protection Regulations and Rules. By signing this form, you consent to the processing of your personal data, including sensitive personal data, by the AIFC Authority for the purposes outlined below.

1. Purpose of Data Collection

The AIFC Authority will process your personal data, including sensitive personal data, for the following purposes:

- Administration of the AIFC Act on Qualifications Necessary for Employment in the AIFC.
- Administration of the Terms of, and procedures for, entry into the Republic of Kazakhstan and leaving the Republic of Kazakhstan, for foreign nationals and stateless persons coming to the Republic of Kazakhstan to conduct activities in the AIFC.
- Other legitimate purposes as required by the AIFC Authority.

2. Types of Personal Data Processed

The personal data that may be collected, used, and processed includes, but is not limited to:

- Full name;
- Date of birth;
- Contact information (e.g., address, email, phone number);
- Identification documents (e.g., passport or national ID)
- Financial information (e.g., salary details);
- Education background;
- Employment history;
- Health-related data (for insurance and employment purposes);

3. Legal Basis for Processing

The processing of personal data will be undertaken in accordance with the requirements for issuing visas and temporary residence permits as outlined in the relevant legislation of the Republic of Kazakhstan and the AIFC Regulations.

4. Data Sharing

Your personal data may be shared with:

- Relevant governmental and regulatory authorities.
- Other parties as required by the Acting Law of the AIFC.

5. Data Retention

Your personal data will be retained for as long as necessary for the purposes for which it is processed and in accordance with AIFC Authority's data retention policies.

6. Your Rights

You have the right to:

- Access your personal data.
- Request correction or deletion of inaccurate or outdated personal data.
- Object to or request the restriction of the processing of your personal data.
- Withdraw your consent at any time, without affecting the lawfulness of the processing before the withdrawal.

7. Consent

By signing this form, I confirm that I understand and agree to the processing of my personal data, including sensitive personal data, by the AIFC Authority for the purposes specified above. I understand that I may withdraw my consent at any time by providing written notice to the AIFC Authority.

**Individual for whom the waiver
or modification is needed:**

Signature & Date:

8. Consent to receive marketing and promotional materials

By signing this form, I confirm that I understand and agree to receive marketing and promotional materials, offers, and updates related to the AIFC Expat Centre and its commercial partners. This may include information about services, events, and exclusive promotions. I understand that I may withdraw my consent to receive marketing and promotional materials at any time by providing written notice to the AIFC Authority.

**Individual for whom the waiver
or modification is needed:**

Signature & Date:

For further information or concerns, please contact:

Expat Centre of the AIFC Authority: address: Kazakhstan, Astana, 55/18 Mangilik El Avenue, Pavilion C3.3. email: expat@aifc.kz, call-centre: +7 7172 959 000.

Approved by
the Committee
on waivers and modifications
of the qualification requirements
necessary for employment in the AIFC of the AIFC Authority JSC
No. ____ dated ____ 20__

Template of
WAIVER/MODIFICATION NOTICE № ____

To: AIFC Participant's Name

BIN

In relation to the individual for whom the waiver or modification is needed

THE ASTANA INTERNATIONAL FINANCIAL CENTRE AUTHORITY JSC HEREBY GIVES THE NOTICE THAT:

The criteria of Section A and/or B specified in Table A herein do not apply to the above-mentioned AIFC Participant and Individual in the form appearing in the AIFC Act on Qualifications necessary for employment in the AIFC.

TABLE A. Waived/ Modified provision.

AIFC Act	Waived/Modified provision
Qualifications necessary for employment in the AIFC.	

Effective period: This notice takes effect on the date of issuance of the [waiver/modification] notice and remains valid [until the expiration date of the Temporary Residence Permit or Work

Visa, subject to reconsideration].

THIS NOTICE IS ISSUED BY AIFC AUTHORITY JSC PURSUANT TO ARTICLE 2 OF THE AIFC ACT ON QUALIFICATION NESSESSARY FOR EMPLOYMENT IN THE AIFC.