

**REVIEW OF RUSSIA'S ECONOMIC LEGISLATION IN JUNE 2013<sup>1</sup>**

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*In June, the following amendments were introduced into the legislation: a state and municipal contract on supply of goods, fulfillment of jobs and rendering of services may be canceled due to a unilateral refusal of a party to fulfill it; high-skilled foreign experts may reside and work in Russia without a patent which is issued to a foreign national who arrived in Russia in accordance with the procedure which does not require a visa; exclusive rights of the Russian Federation to intellectual outputs will be assigned more actively to nationals of the Russian Federation and legal entities; the procedure for execution and issuing by the Federal Migration Service of Russia of invitations to foreign nationals and stateless persons for entry into the Russian Federation has been updated.*

**I. Federal Laws of the Russian Federation**

1. Federal law No. 114-FZ of June 7, 2013 on AMENDMENT OF THE FEDERAL LAW ON PLACEMENT OF ORDERS FOR SUPPLY OF GOODS, FULFILLMENT OF JOBS AND RENDERING OF SERVICES FOR STATE AND MUNICIPAL PURPOSES

In the federal law, new article 19.2 is introduced. The above article sets the procedure for termination of a contract due to a unilateral refusal by a party to the contract to fulfill it. The need of such a norm to be included is justified by the fact that the effective wording of the law provides for termination of the contract only by agreement between the parties or a court decision though the civil legislation provides for the possibility of termination of contracts unilaterally in case important terms of the contract have been violated.

So, the customer is in a position to take a decision on a unilateral refusal to fulfill the contract in accordance with the civil legislation provided that it was envisaged by the contract in case of examination of goods delivered, jobs fulfilled and service rendered with engagement of experts and expert organizations prior to taking of a decision on a unilateral refusal to fulfill the contract. It is to be noted that the selection of experts and expert organizations is carried out in accordance with the Federal Law in question. If the customer has carried out examination of goods delivered, jobs fulfilled and services rendered with engagement of experts and expert organizations, a decision on unilateral refusal to fulfill the contract can be taken by the customer only on condition that on the basis of the results of the examination of goods delivered, job fulfilled and service rendered such violations of the terms of the contract as constituted grounds for a unilateral refusal by the customer to fulfill the contract have been confirmed in the conclusion of the expert and expert organization. The information on the provider (performer or contractor) with

whom the contract was terminated due to a unilateral refusal of the customer to fulfill the contract is entered in accordance with the procedure adopted by the Law in question in the register of unscrupulous providers. The customer is in a position to take a decision on unilateral refusal to fulfill the contract in accordance with the civil legislation if the right of the customer to take a decision on unilateral refusal to fulfill the contract was envisaged in the contract. Decision of the provider (performer or contractor) on unilateral refusal to fulfill the contract becomes effective and the contract is deemed terminated 10 days after the day of proper notification by the provider (performer or contractor) of the customer of unilateral refusal to fulfill the contract. The decision of the provider (performer or contractor) on unilateral refusal to fulfill the contract becomes effective and the contract is deemed terminated 10 days after the day of proper notification by the provider (performer or contractor) of the customer of a unilateral refusal to fulfill the contract.

In termination of the contract due to unilateral refusal by a party to the contract to fulfill the contract, the other party to the contract is in a position to demand indemnification of only actually incurred damage directly justified by circumstances which constitute grounds for taking of a decision on unilateral refusal to fulfill the contract.

**II. Resolutions of the Government of the Russian Federation**

1. Resolution No. 481 of June 6, 2013 on AMENDMENT OF RESOLUTION NO.487 OF JUNE 30, 2010

By the Resolution, a new form of request of the employer or customer of jobs (services) as regards employment of a high-skilled foreign expert (HSFE) has been approved and any mention of a patent issued to a foreign national arriving in the Russian Federation in accordance with a procedure which does not require a visa has been excluded in order to avoid inconsistency of the norms as the patent issued to a foreign national

<sup>1</sup> The Review has been prepared with assistance of the KonsultantPlus Legal System.

arriving in the Russian Federation in accordance with the procedure which does not require a visa is not mentioned in Article 13.2 of the Federal Law on The Legal Status of Foreign Nationals in the Russian Federation which regulates in detail the procedure for engagement and stay in the Russian Federation of such a category of foreign nationals as HSFE; the need to secure a patent is determined by the Federal Law only in respect of foreign nationals who work for individuals.

2. Resolution No.458 of May 30, 2013 on AMENDMENT OF THE RULES OF CARRYING OUT BY STATE CUSTOMERS OF MANAGEMENT OF THE RUSSIAN FEDERATION'S RIGHTS TO INTELLECTUAL OUTPUTS OF CIVIL, MILITARY AND DUAL PURPOSE

It is envisaged that state customers on which order intellectual outputs (IO) were created are obligated at least once a year to consider expedience of preservation of the exclusive rights of the Russian Federation and take in respect of those rights the following decisions: on loss of importance to preserve the rights of the Russian Federation; on a possibility to enter into agreement on a free of charge assignment of the right; on a possibility to enter into agreement on granting of an open (non-exclusive) license to utilize IO by third persons; or on expedience of preservation of the exclusive right of the Russian Federation. The list of IO in respect of which one of the first three decisions has been taken is to be placed by state customers at their official Web-sites provided that the information does not constitute a state secret. The above license agreement (in case of refusal by the contractor of the state contract – which contractor created IO – to enter into agreement on a free of charge assignment of the exclusive right) is to be concluded by the state customer within six months from the day of placement of the information on the Web-site with those Russian nationals and legal entities registered in the territory of the Russian Federation which applied to it. If within three years nobody applied with a request to conclude a license agreement, the state customer is to take a decision on early termination of the patent on IO.

In addition to the above, the grounds behind a decision on loss of importance to preserve the right of the Russian Federation to IO have been specified, that is, non-use of that output for state needs within three, not four years as it was determined earlier.

### III. Instructions, Letters and Orders

1. Order No.390 of November 30, 2012 of the Federal Migration Service of Russia on APPROVAL OF ADMINISTRATIVE REGULATIONS AS REGARDS RENDERING BY THE FEDERAL MIGRATION SERVICE OF A PUBLIC SERVICE RELATED TO EXECUTION AND ISSUING OF INVITATIONS FOR ENTRY IN THE RUSSIAN FEDERATION OF FOREIGN NATIONALS AND STATELESS PERSONS

The above Order was registered by the Ministry of Justice of Russia under No.28578 on May 30, 2013.

The procedure for executing and issuing by the Federal Migration Service of Russia of invitations for entry by foreign nationals and stateless persons in Russia has been updated. In the regulations, the content, deadlines and sequence of administrative actions by officials of the Federal Migration Service of Russia in fulfillment of that function were specified.

It is determined that the invitation is to be executed within a period not exceeding 20 days (not 30 days as it was before) from the day of application and submission of all the required and properly executed documents.

The number of applicants for receipt of invitations now includes branches of foreign legal entities which in accordance with notification procedure became registered with the Federal Migration Service of Russia or its territorial office in case of invitation by those branches of foreign nationals for work in the Russian Federation. Also, the content and forms of documents used in the process of receipt of invitations have been specified. In addition to the above, in the annex to the Order the contact information on territorial offices of the Federal Migration Service of Russia by the constituent entities of the Russian Federation is provided.

Order No.142 of June 6, 2008 of the Federal Migration Service of Russia which set the former procedure for issuing of invitations for entry in the Russian Federation of foreign nationals and stateless persons became null and void.

2. Order No.211 of April 19, 2013 of the Federal Migration Service of Russia on APPROVAL OF THE FORMS OF APPLICATION FOR PATENT

The above Order was registered by the Ministry of Justice under No. 28650 on June 4, 2013.

The new form of a patent issued to a foreign national arriving in the Russian Federation in accordance with a procedure which does not require a visa has been updated. Foreign nationals who stay legally in the territory of the Russian Federation may be engaged by individuals for fulfillment of jobs (rendering of services) which are not related to business activities provided that they have got a patent. Earlier, the form of such a patent (recognized as void) was approved by the Government of the Russian Federation (Resolution No.487 of June 30, 2010; amendments were considered above). At present, the Federal Migration Service of Russia is entrusted with those authorities.

The new form of the patent provides for more detailed information on a foreign national (including the personal data, place of permanent stay, migration card number and address of migration registration, the place of work and other).