

REVIEW OF THE ECONOMIC LEGISLATION IN DECEMBER 2014

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In December, the following main amendments were introduced in the legislation: quotas were replaced with patents for foreign workers who arrive in Russia on a visa-free basis; employers rights to establish associations have been expanded; from January 1, 2015 the minimum monthly wage increased; the procedure for employment and use of foreign workers in Russia has been upgraded.

I. Federal Laws of the Russian Federation

1. Federal law No. 357-FZ of November 24, 2014 on AMENDMENT OF THE FEDERAL LAW ON THE LEGAL STATUS OF FOREIGN NATIONALS IN THE RUSSIAN FEDERATION AND INDIVIDUAL STATUTORY ACTS OF THE RUSSIAN FEDERATION

From January 1, 2015, the notion of a patent is introduced; it says that it is a document which certifies the right of a foreign national arriving in Russia on a visa-free basis (except for individual categories of foreign nationals) to temporary employment with individuals and legal entities in the territory of the Russian Federation.

Prior to introduction of amendments, the patent certified the right of foreign nationals who legally arrived in the Russian Federation on a visa-free basis and reached the age of 18 to be employed by nationals of the Russian Federation (individuals) on the basis of a labor agreement or a civil law contract on fulfillment of jobs (rendering of services) for private, household and other similar needs which have nothing to do with entrepreneurial activities.

Work permits issued before the day the amendments became effective, that is, January 1, 2015, confirm the right of a foreign national to temporary employment in the territory of the Russian Federation (with legal entities) and remain in force within a period for which they were issued or till the day of their termination. Similar patents issued before the effective date of the amendments certify the right of foreign nationals who legally stay in the territory of the Russian Federation on a visa-free basis to be employed with Russian nationals on the basis of a labor agreement or a civil law contract on fulfillment of jobs (rendering of services) for personal, household and other similar needs which have nothing to do with entrepreneurial activities and remain in force within a period for which they were issued or till termination thereof. It is to be noted that the patent cannot be extended for a new period.

It is to be noted that high-skilled foreign workers who arrive on a visa-free basis need to receive a work permit, rather than a patent.

In the migration card of a foreign national who arrives in the Russian Federation on a visa-free basis, it is to be specified that work is the purpose of the visit to the Russian Federation, otherwise, such a foreign national can be denied a patent by the Federal Migration Service.

The procedure for extension or reduction of the period of a temporary stay of a foreign national in the Russian Federation is set in accordance with the decision of the federal executive authority which is in charge of foreign affairs issues and a federal executive authority which deals with migration issues.

If the patent of a foreign national was not extended or cancelled, that foreign national has to leave the Russian Federation upon the expiry of the term of his/her temporary stay.

The employer or contractor who engage and use foreign nationals for carrying out their labor activities has to notify the local agency of the Federal Migration Service of the Russian Federation in the area where that foreign national works on conclusion or termination of the labor agreement or civil law contract with that foreign national within a period of maximum three business days from the day of entering into the contract or termination thereof.

A mandatory state dactyloscopic registration of foreign nationals applying to local agencies of the Federal Migration Service of the Russian Federation for a patent which grants them the right to work in Russia has been established.

Also, the draft law provides for administrative responsibility, in particular, for violation by foreign nationals of the term within which they have to apply for a patent.

2. Federal Law No.358-FZ of November 24, 2014 on AMENDMENT OF INDIVIDUAL STATUTORY ACTS OF THE RUSSIAN FEDERATION

Article 2 of the Labor Code of the Russian Federation has been supplemented with another principle of legal regulation of labor relations, that is, the right of employers to establish associations of employers and join such associations. The above principle reproduces the

constitutional provision on the right of individuals to association as applied to the parties of labor relations: workers and employers. Workers and employers may voluntarily join such associations for protection of their rights and interests. Workers join, as a rule, trade unions whose main objective is to represent workers' interests in relations with employers, state authorities and local government authorities and protect workers' labor rights. In its turn, employers' rights are represented by associations of employers. Those associations are non-profit organizations which bring together employers on a voluntary basis. The right of workers and employers to association is in the basis of a social partnership and regulation of labor relations on the basis of a contract.

An agreement is a legal instrument which regulates social and labor relations and establishes the general principles of regulation of economic relations between authorized representatives of workers and employers on the federal, interregional, regional, sectorial (interbranch) and territorial levels of social partnership within the limits of their authority.

By agreement between the parties participating in collective bargaining, agreements can be bilateral and tripartite ones.

Agreements which include obligations whose financial provision is ensured by means of funds of relevant budgets are concluded with mandatory participation of relevant state authorities or local government authorities which are a party to the agreement (in addition of the Federal Law N 55-FZ of April 2, 2014).

Depending on the area of regulation of social and labor relations, the following agreements can be concluded: general, interregional, regional, sectorial (interbranch), territorial and other agreements.

A general agreement sets general principles of regulation of social and labor relations and economic relations related thereto on the federal level.

An interregional agreement sets the general principles of regulation of social and labor relations and economic relations related thereto on the level of two or more constituent entities of the Russian Federation.

A regional agreement sets the general principles of regulation of social and labor relations and economic relations related thereto on the level of a constituent entity of the Russian Federation.

A sectorial (inter-branch) agreement sets the general terms of labor remuneration, guarantees and compensations and incentives for workers of a sector (sectors). A sectorial (interbranch) agreement can be concluded on the federal, interregional, regional and territorial levels of social partnership.

A territorial agreement sets the general terms of labor, guarantees, compensations and incentives for workers in the territory of a relevant municipal entity.

Other agreements are agreements which can be concluded on any level of social partnership by individual lines of regulation of social and labor relations and other relations directly related thereto.

The commission on preparation of such an agreement has to provide the information on the beginning of the negotiations on conclusion of such an agreement via the mass media.

Also, it is determined that the employer who joins the association of employers during the validity of the agreement has to fulfill obligations provided for by the agreement even if the employer terminated his/her membership in a relevant association of employers. In addition to the above, the agreement can be suspended provided that it is impossible to fulfill it for economic, technological and institutional reasons in respect of that employer by a tripartite commission.

The state should assist in establishment of such associations and motivate employers to join them.

The number of employers who can found an association of employers now amounts minimum to three, but such an association can also be founded by minimum two associations of employers.

Non-profit organizations which are not entered into the state register will not have the right to be identified as "an association of employers". The data of the state register of associations of employers will be open and available to the public.

All the associations of employers established before approval of the law have to bring their founding documents in compliance with the law and relevant statutory acts of the Government of the Russian Federation within a year from the effective date of the law.

3. Federal Law No.408-FZ of December 1, 2014 on AMENDMENT OF ARTICLE 1 OF THE FEDERAL LAW ON THE MINIMUM WAGE AMOUNT

From January 1, 2015 the minimum wage amount increased from Rb 5,554 to Rb 5,965.

4. Federal Law No.409-FZ of December 1, 2014 on INTRODUCTION TO THE LABOR CODE OF THE RUSSIAN FEDERATION AND ARTICLE 13 OF THE FEDERAL LAW ON THE LEGAL STATUS OF FOREIGN NATIONALS IN THE RUSSIAN FEDERATION OF AMENDMENTS RELATED TO THE SPECIFICS OF REGULATION OF EMPLOYMENT OF WORKERS WHO ARE FOREIGN NATIONALS OR STATELESS PERSONS

In the Labor Code of the Russian Federation, new Chapter 50.1 providing for the specifics of regulation of employment of workers who are foreign nationals or stateless persons has been introduced.

So, unless otherwise is established by federal laws foreign nationals and stateless persons have the right to enter in labor relations as workers after reaching the age of 18.

A labor agreement between foreign nationals or stateless person and the employer cannot be entered into if in accordance with the federal laws and international agreements of the Russian Federation the employer is not in a position to employ workers who are foreign nationals and stateless persons.

It is established that a labor agreement between a worker who is a foreign national or a stateless person and the employer is concluded for an indefinite period of time.

Also, the specifics of conclusion of a labor agreement, temporary transfer of a worker, suspension of the worker, termination of the labor agreement with a worker and payment to that worker of a loss-of-employment compensation was established.

For employment, a foreign worker must have an effective voluntary medical insurance policy or entitlement to medical aid on the basis of the agreement entered into between the employer and a medical institution on provision of paid medical services to a foreign worker. ●