

MAIN CHANGES 2014 IN RUSSIA

We would like to give you an overview of the most significant legislative changes related to employment laws in Russia in 2014.

The overview is divided into two parts: the first part covers changes affecting most employers and employees, and the second part, those pertaining to foreign employees.

Seconded Work

On 1 January 2016, amendments to the Labour Code protecting “seconded work” will take effect. “Seconded work” means the work carried out by an employee on the instruction of his/her employer and in the interests and under the guidance and supervision of an individual or legal entity other than the employer of the employee.

At the same time, these amendments provide for adoption of a separate federal law setting out the peculiarities of regulating the work of employees seconded by their employer, other than a private employment agency to other legal entities. The Ministry of Economic Development has prepared such a federal bill.

According to the bill, employers may provide employees for temporary work to a company they are affiliated with or if they are both parties to the relevant shareholders’ agreement.

According to the federal bill, “affiliated parties” are parties that may influence each other’s activities or whose activities may be influenced by a third party. The bill, however, does not exactly define such influence.

Experts, therefore, fear that seconded employees may be used by all interdependent companies.

Currently, the bill is being debated publicly.

[Bill](#)

Additional Guarantees for Women and Persons with Family Obligations

In Ruling No. 1 dated 28 January 2014, the Plenum of the Supreme Court of the Russian Federation clarified the controversies concerning the regulation of work of women, persons with family obligations, and minors.

- The ruling defines a “person with family obligations” as an employee who has obligations related to raising and developing a child in accordance with family or other applicable laws (a parent, an adoptive parent, a person authorized to act as a guardian or a trustee); another relative who actually takes care of the child in the cases specifically provided for by applicable laws (part 2 of article 256 of the Labour Code of the Russian Federation (the RF LC)); an employee who has obligations to other members of his family in need of care or help.
- “Single mother” has been made a broader term to also include women who, in fact, raise a child on their own, though the child has a father who is legally incompetent, is serving a sentence in jail, avoids raising the child, and/or cannot personally raise and provide for the child for health reasons.
- The ruling also includes an open list of the circumstances under which the father and the persons authorized to act as guardians or trustees qualify as the persons raising the child without a mother, and clarifies labor guarantees and benefits to which they are entitled. Persons raising a child under a year and a half without a mother cannot be subject to a probation period in a new employment; upon the request by the employee raising a child under fourteen (or a disabled child under eighteen) without a mother, the employee must be allowed to work part-time; the guarantees and benefits provided to mothers will, from now on, be provided to other persons raising children without a mother.
- Finally, the ruling explains the peculiarities of termination of employment contracts with pregnant women having executive positions in entities. On termination of the employment contract, a pregnant female manager will be entitled to the same guarantees as other pregnant employees. If the effective term of a fixed-term employment contract ends during pregnancy, the employee will be discharged on the day on which her maternity leave ends.

Refusal to Hire

The State Duma is considering a bill amending the Labour Code. Provided that the bill is adopted, an employer will have seven days to provide a job seeker with a written explanation of the employer’s refusal to enter into an employment contract with the job seeker.

Currently, the Labour Code does not specify a timeframe for the provision of such explanation and therefore, according to the authors' of the bill, the regulation does not work since employers cannot be, in fact, held liable.

[Bill No. 549514-6](#)

The right of employees to choose a bank

Amendments concerning the employees' right to independently select a bank to transfer his/her salary have been made to the Labour Code of the Russian Federation.

Until now, the Labour Code of the Russian Federation has not specified how to select such banks. In practical terms, this meant that it was the employer who assigned a bank to all employees. From now on, if an employee disagrees with the employer's choice, the employee may require that another bank be used. To do so, the employee must provide the employer with the relevant account details at least five business days prior to the date of salary transfer.

The law took effect on 5 November 2014.

Federal Law No. 333-FZ dated 4 November 2014

Paying an Even Higher Price for Delaying Salaries

The Ministry of Labour has drafted a bill raising the interest for delaying salaries. The bill provides for a progressive interest scale. According to the bill, the initial interest should be 1/150 of the discount rate; should a salary be delayed for a year, 1/75 of the discount rate will apply from then on.

Now, the interest for each day of delaying a salary is 1/300 of the discount rate of the Central Bank of the Russian Federation.

The bill also provides for expanding the limitation period for disputes over non-payment of salaries from the current one year to three years from the date on which the salary must be paid.

[Bill](#)

Option Agreements for Employees

A bill has been prepared allowing the employer to enter into option agreements as incentives for its employees. The bill provides for making the necessary amendments to the Federal Law "On Joint-Stock Companies", the Federal Law "On Limited Liability Companies", and the Labour Code.

This incentive may be used subject to being expressly provided for in the company's charter. Selling shares to employees will not be subject to other shareholders' pre-

emption rights and will be exempt from a number of other requirements.

The procedure for selling shares in a joint-stock company and the terms and conditions of entering into such agreements with employees will be determined by the general meeting of the company or by the relevant resolution of the board of directors. It is suggested that shares in a limited liability company's authorized capital should be sold subject to a unanimous resolution of the general meeting.

The bill also contains a proposal to incorporate the possibility to enter into option agreements into article 191 of the RF LC, as an employment incentive. The relevant provision will be included for the purpose of encouraging employees to work for the employer conscientiously and for a long time and to achieve the performance indicators set by the employer. The employee and the employer may also agree that the employee, instead of obtaining shares on a preferential basis, will receive an amount in cash.

The bill has already been debated publicly but has not yet been submitted to the State Duma.

[Bill](#)

Protection from Job Cuts

A bill complicating the procedure for dismissing older employees who are two years from retirement age (including early retirement) has been introduced to the State Duma. In the event of job cuts, such employees will have the right to remain in employment ahead of other employees.

Now, the applicable laws require that employers, when selecting employees who will remain in employment, should give preference to young mothers, parents with children, families with dependants, and to several other categories of employees (subject to their performance being equal to that of other employees that may be dismissed).

[Bill No. 558255-6](#)

Trade Union Branch Leaders Cannot Be Dismissed Without the Consent of the State Labour Inspectorate

A federal law has been adopted providing for better protection of leaders of primary trade union organizations from dismissal in the event of job cuts, unsuitability for the position held or work carried out because of a lack of skills evidenced by performance appraisal results, or repeated failure to perform employment duties without a good reason.

From now on, such employees may be dismissed with the consent of the primary trade union organization. Should the consent not be given, it will be sought from a higher-level trade union organization. A dismissal for repeated

failure to perform employment duties without a good reason will from now on also have to be approved by the State Labour Inspectorate, the decision of which may be disputed through legal action only.

The law took effect on 11 July 2014.

Federal Law No. 199-FZ dated 28 June 2014

FOREIGN EMPLOYEES

The Labour Code Has Been Supplemented with a New Chapter

The Labour Code has been supplemented with a new chapter regulating the peculiarities associated with foreign employees.

A separate article deals with the peculiarities of entering into an employment contract with a foreigner, listing the items of information that must be specified in the employment contract, namely, the information regarding the foreigner's work permit or patent and regarding his/her temporary or permanent residency permit.

The chapter also specifies additional grounds for termination of an employment contract with foreign employees, such as suspension, expiry of the effective term, or termination of the permit to engage and use foreign employees; termination of work permit or patent; expiry of the effective term of temporary residency permits.

Should the permit to engage and use a foreign employee be suspended or terminated, the dismissed foreign employee will be paid a small severance amount of two week's average pay.

The law will take effect on 13 December 2014.

Federal Law No. 409-FZ dated 01 December 2014

Social Insurance of Foreign Employees

The requirement to have mandatory medical insurance against temporary incapacity for work and in connection with maternity will, from now on, apply to foreign nationals residing in Russia temporarily (other than highly qualified specialists) who signed an employment contract for an indefinite period of time or for a period of at least 6 months in a calendar year with one employer. Such foreign employees will be provided with certificates of incapacity for work and have paid sick leaves.

The law will take effect on 1 January 2015.

Federal Law No. 407-FZ dated 01 December 2014

Highly Qualified IT Specialists

Employment requirements as to the amount of salaries entitling highly qualified IT specialists to work for Russian IT companies have been reduced: foreign scientists and teachers invited by Russian IT companies will qualify as highly qualified specialists if their salary exceeds one million rubles a year (instead of the standard requirement of two million rubles a year).

The Federal Law took effect on 24 June 2014.

Federal Law No. 164-FZ dated 23 June 2014

Salary of Highly Qualified Specialists

A bill has been introduced to the State Duma to simplify employment of highly qualified specialists. The bill would lower the salary threshold required for recognizing a foreign specialist as a highly qualified specialist from two million rubles a year to one million rubles a year. The authors of the bill explain that an average annual salary of a highly qualified specialist is several times higher than an average annual salary paid in the majority of the constituent entities of the Russian Federation.

[Bill No. 582143-6](#)

Should you have any further questions, please do not hesitate to contact our experts:



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