

20 January 2015



## Improved procedure for employing foreign workers in Russia

On 13 December 2014, amendments to the Labor Code of the Russian Federation, adopted pursuant to Federal Law No. 409-FZ dated 1 December 2014, become effective. Amendments relate to the introduction of a new chapter 50.1 which provides for regulatory aspects of the labor of foreign citizens or stateless persons (hereinafter, the “foreign citizen/worker”).

### 1. Special aspects of entering into an employment agreement

The new chapter provides for the conclusion of an employment agreement for an indefinite term regardless of the term limitation of the documents of foreign citizens. If the employment agreement is entered into for the performance of an absentee's duties or in other cases stipulated by Article 59 of the Labor Code of the Russian Federation, the employment agreement shall be fixed-term.

Under the new regulations, an employment agreement with a foreign citizen shall incorporate the data about the documents below, along with the data specified in Part I of Article 57 of the Labor Code of the Russian Federation:

- a work permit or patent for foreign citizens temporarily staying in the Russian Federation<sup>1</sup>;
- a temporary residence permit for foreign citizens temporarily residing in the Russian Federation<sup>2</sup>;

- a permanent residence permit for foreign citizens permanently residing in the Russian Federation<sup>3</sup>;

- a voluntary medical insurance agreement/certificate effective in the Russian Federation.

The foreign citizen shall provide the above mentioned documents to the employer at the time of entering into the employment agreement.

If under the employment agreement the employer contracts a medical institution for the provision of paid-for medical services to the foreign worker, the voluntary medical insurance agreement/certificate is not submitted.

A work permit may be provided after the conclusion of an employment agreement if obtaining the former is subject to the availability of the latter.

### 2. Circumstances and terms of temporary transfer of a foreign worker

A foreign citizen may be transferred to work not stipulated in the employment agreement regardless of the profession/qualification/job/type of work activities specified in the work permit or patent.

Such a transfer is only possible for a period not exceeding one month and may be performed only once within a calendar year.

### 3. Special aspects of dismissal of a foreign worker from work

<sup>1</sup>A foreign citizen who is temporarily staying in the Russian Federation is a person staying in the Russian Federation on the basis of a visa or visa free regime and having obtained a migration card but having no permanent residence permit or temporary residence permit

<sup>2</sup>A foreign citizen who is temporarily resident in the Russian Federation is a person who obtained a temporary residence permit

<sup>3</sup>A foreign citizen who is permanently resident in the Russian Federation is a person who obtained a permanent residence permit

Regulations:

- The Labor Code of the Russian Federation

- Federal Law No. 409-FZ dated 1 December 2014 "On the introduction to the Labor Code of the Russian Federation and Article 13 of the Federal Law 'On the legal status of foreign citizens in the Russian Federation' of amendments related to the special aspects of regulation of labor of foreign citizens or stateless persons"

- Federal Law No. 115-FZ dated 25 July 2002 "On the legal status of foreign citizens in the Russian Federation"

- Federal Law No. 271-FZ dated 30 December 2006 "On retail markets and the introduction of amendments to the Labor Code of the Russian Federation"

Along with the cases stipulated in Article 76 of the Labor Code of the Russian Federation, the employer shall dismiss/debar the worker from work in the following cases:

- 1) suspension or expiration of the permit for employment of foreign workers;
- 2) expiration of the work permit or patent, temporary residence permit, permanent residence permit, voluntary medical insurance agreement/policy, or termination of the agreement entered into by the employer with the medical institution for the provision of paid-for medical services to the worker.

**4. New grounds for the termination of the employment agreement with a foreign worker**

- 1) suspension, expiration, cancellation of the permit for the employment of foreign workers;
- 2) cancellation of the work permit or patent;
- 3) cancellation of the permit for temporary residence in the Russian Federation;
- 4) cancellation of the permit for permanent residence in the Russian Federation;
- 5) expiration of the work permit or patent;
- 3) expiration of the permit for temporarily residence in the Russian Federation;
- 3) expiration of the permit for permanent residence in the Russian Federation;
- 8) expiration of the voluntary medical insurance agreement/certificate within the Russian Federation;
- 9) aligning the number of workers who are foreign citizens or stateless persons with limitations specified by the regulations of the Russian Federation for the conducting of labor activities by foreign citizens or stateless persons;

10) inability to reemploy the worker upon expiration of the temporal transfer pursuant to Part II of Article 327.4 of the Labor Code of the Russian Federation;

11) inability to temporarily transfer the worker pursuant to Part III of Article 327.4 of the Labor Code of the Russian Federation.

The employment agreement shall be terminated on the grounds specified in paragraphs 5-8 one month after the day when the relevant circumstances occurred.

The employment agreement shall be terminated on the grounds stipulated in paragraph 9 prior to the expiration of the term specified by the relevant regulations of the Russian Federation.

If the termination of the employment agreement results from the grounds stipulated in paragraphs 10 and 11, the employer shall notify the worker in writing not later than three calendar days before the dismissal.

**5. Special aspects of the termination payment**

Termination benefits in the amount of two-week average earnings are paid to a foreign worker only upon termination of the employment agreement resulting from suspension or cancellation of the permit for employing foreign workers which provided the grounds for granting the work permit to the worker.

**6. Penalties for the violation of foreign citizen employment rules**

Taking into account the new regulations, the employer should accurately monitor the expiry dates of foreign workers' documents, and take necessary actions upon expiration of terms specified to avoid disputes with the worker or reviewing authorities.

The Code of Administrative Offenses of the Russian Federation stipulates the penalties for the violation of

rules of employment of foreign citizens and stateless persons.

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We hope that you will find the information presented in this issue useful. Our specialists are ready to answer any questions you may have regarding the topic presented.

# Contact details

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