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Recent developments/changes in migration law: practical aspects

AEB Conference: Bringing expats to Russia
27 February 2014

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Today's Agenda

Development/changes:

1. for Highly Qualified Specialists ('HQS')
2. for the all foreign employees
3. for the foreign employees from the counties of WTO members
4. for the foreigners from CIS countries

***Recent developments/changes in migration law:
practical aspects
- for 'HQS'***

- The Russian Federal Migration Service has delegated its powers to issue work permits and visa invitations for highly qualified specialists (working in regional companies) to Regional Departments of the Russian Federal Migration Service.

(Practical Aspects)

- Regional immigration authorities are not experienced in process of 'HQS'
- There may be local requirements in the process

Recent developments/changes in migration law: practical aspects

-For all foreign employees

- When obtaining an individual work permit for a foreign national, it is required to submit an application for obtaining an individual Tax Identification Number ('TIN') together with all other documents (if a TIN is already obtained, it is necessary to attach the TIN original and its copy or a copy certified by a notary).

(Practical aspects)

- Immigration registration may be required;
- TIN certificate may requested to be presented when collecting the work permit;
- Requirement to register those who did not obtain TIN before;
- Kazakh and Belorussian nationals – shall they receive TIN too?

Recent developments/changes in migration law: practical aspects

-For all foreign employees

- When preparing invitation letters for foreign nationals (including highly qualified specialists) and their family members, or the extension of the visas upon the extension of the work permits, it should be noted that the passports shall be valid for at least 1.5 years from the date of application.

(Practical aspects)

- To check well in advance the validity of the passport;
- Before the extension of the work permit process to check the validity of the passport and obtain new ones, if required, before the extension of the work permit and visas;

Recent developments/changes in migration law: practical aspects

-For all foreign employees

- The migration authorities may deny the entry to the Russian Federation of a foreign national for a period of up to three years, if administrative penalty were repeatedly (two or more times) imposed on such a foreign national in the Russian Federation.
- Information on whether the migration authorities may deny entry to the Russian Federation to a foreign national is provided on the website of the Federal Migration Service (the link is below):

<http://services.fms.gov.ru/info-service.htm?sid=3000>

(Practical Aspects):

- Check regularly the link, especially, before the business trips or holidays outside Russia.

Recent developments/changes in migration law: practical aspects

- The list of non-quota positions is approved

The list of non-quota positions			
13. Director General of a joint-stock company	19. Chief Engineer (in industry)	24. Director of a plant	29. Director of a factory
14. Director General of a directorate general	20. Chief Project Engineer	25. Director of a joint enterprise	30. Director (Head) of a branch
16. General Director of a joint enterprise	21. Director of a joint-stock company	26. Economics Director	31. Director of a firm
17. Director General of an enterprise	22. Department Director	27. Director (Head, Executive) of an enterprise	33. Deputy Chair of the Management Board
18. Director General of a production facility	23. Director (Head, Authorised Representative) of a directorate	28. Director of a representative office	36. Automated and mechanised production process engineer

Recent developments in migration law taking effect after 1 January 2014

The list of non-quota positions

37. Automated production management systems engineer	42. Maintaining and testing engineer	47. Industrial engineer	58. Drilling technician
38. Automated technological process management systems engineer	43. Production management engineer	48. Electric engineer	59. Maintaining and testing technician
39. New equipment and technology implementation engineer	44. Production preparation engineer	53. Chair of the Management Board	60. Technician
40. Data security engineer	45. Welding engineer	54. President of a joint enterprise (consolidated group, corporation) (social and economic organisation)	
41. Quality engineer	46. Design engineer	55. Drilling technician	

Recent developments/changes in migration law: practical aspects

(Practical Aspects):

- To consider the options for hiring non-HQS staff;
- Potential request from the authorities to confirm the profession by providing diplomas, etc.

Recent developments/changes in migration law: practical aspects

- WTO member countries

For the representative offices, branches and subsidiaries created/founded by the foreign legal entities registered in the foreign jurisdictions of WTO members, the new simplified process for obtaining the work permits and visas are introduced from January 1, 2014.

(Advantages)

- The expatriates who meet a certain condition can receive the work permit and work visa for up to 3 years.
- The law allows to reduce the period to obtain a work permit for an expatriate from 3-4 months (under ordinary procedure) down to 30 business days. This procedure is similar to the procedure applicable to highly qualified specialists.
- No quota is required to apply for the work permit.

Recent developments/changes in migration law: practical aspects

- WTO member countries

(Requirements)

- Expatriates should be employed by a foreign company intending to assign them to the Russian Federation at least for one year;
- The remuneration RUB 2 million per year;
- Expatriates shall be employed in positions of ‘Management’ and/or ‘Coordination’.
- The total amount of expatriates working at the Representative Office may not exceed five employees, and two employees at the banking sector.

Recent developments/changes in migration law: practical aspects

- WTO member countries

(Practical aspects)

- FMS and its regional departments do not accept the documents yet; no procedure has been developed yet.
- Mostly applicable for representative offices; not interested for others.

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Slide 12

YOG10 Only RO?

What is the relationship between above 'Management/Cordination' and key positions?

Yukiko Ogawa; 11.02.2014

Recent developments/changes in migration law: practical aspects

- For CIS country citizens

- Changes in the procedure for submitting documents to obtain work permits for foreign nationals from visa-free countries (to the Moscow Department of the Russian Federal Migration Service):
 - When submitting documents it is required to provide **a fully executed original** of the labour contract.
 - The labour contract effective date stated in the labour contract and work permit forms shall be not earlier than in three weeks as of the WP submission date.
 - Requirements to the wording of the labour contract effective date: the phrase “..but not earlier than the date a work permit is obtained” is mandatory.

Recent developments/changes in migration law: practical aspects

- For CIS country citizens

- When obtaining a work permit for a foreign national covered by a visa-free regime, medical certificates shall be submitted to the Department of the Russian Federal Migration Service only together with all work permit documents (not upon submission of these documents, as it used to be).
- (Practical Aspects)
- Planning a trip to Russia for passing a medical check and signing the employment contract;
- To check regional requirements for the employment contracts (signed on each page or not; corporate stamp where to put it, etc.)

Recent developments/changes in migration law: practical aspects

- For CIS country citizens

- Temporary stay in the Russian Federation for foreign nationals from visa-free countries shall not exceed 90 days in aggregate within each 180-day period, if such term is not extended (e.g. by entering into a labour contract).
- This restriction applies to foreign nationals from visa-free countries who have come to the Russian Federation with the following purpose:
 - private trip;
 - tourism;
 - business.

Recent developments/changes in migration law: practical aspects

- For CIS country citizens

- This restriction does not apply to foreign nationals working in the Russian Federation and to their accompanying family members;
- If such a foreign national violated this rule during its previous stay, the Russian state authorities may ban this foreign national entering the Russian Federation for a 3-year term.

- (Practical Aspects)
- To check in advance how many days the CIS foreign national have already stayed in Russia before applying for the work permit;
- What to mention in migration card: work, employment, business?

***Recent developments/changes in migration law:
practical aspects***

Questions?

Gennady Odarich
Law Practice Director
PricewaterhouseCoopers

Russia, 125047, Moscow
Butyrsky Val 10
+7 495 232 5758
gennady.odarich@ru.pwc.com

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