



# CURRENT ISSUES IN THE FIELD OF MIGRATION



## RESULTS OF THE AEB MIGRATION COMMITTEE WORK

Ongoing work has been underway to maintain the HQS category with the current benefits and advantages in the new migration concept. The Committee submitted a number of proposals to the draft law, which is now scheduled for consideration at the end of 2024.

### Changes have been made to procedures and current legislation:

- › HQS and their family members now undergo a medical examination once every 3 years when renewing the work permit.
- › The list of medical examinations for minor HQS family members was reduced.
- › It is now possible to submit medical documents within 30 days both after the decision to extend the work permit, as well as within 30 days from the moment of entry into the Russian Federation.
- › The criteria for obtaining a “golden visa” for investors in the Russian economy have been defined together with the Ministry of Economic Development. The law provides for the issuance of a residence permit not only to a foreign citizen who has made an investment, but also to members of his/her family (spouses, children, children’s spouses, parents, parents’ spouses, grandparents, grandchildren). Such a residence permit is issued without obtaining a temporary residence permit first.

## LEGISLATIVE ISSUES

**1.** The requirement stipulated in the current legislation to pay the HQS salary not less than 501,000 roubles per quarter, and from March 1, 2024 in the amount of not less than 750,000 thousand roubles – goes against the current labor legislation in cases when HQS is absent from work for a valid reason. According to the migration legislation, failure to pay the specified quarterly amount during illness, maternity leave, unpaid leave will be considered as the employer’s

failure to meet the requirements to pay the HQS the established salary and will result in fines and punishment in the form of deprivation of the ability to engage the HQS for two years.

### PROPOSAL:

In order to resolve this issue related to the conflict of migration, labor and tax law, it is necessary to develop special, more flexible approaches and fix them in the current legislation.

**2.** There is no clear definition in the legislation of how to pay the HQS salary for the first quarter of the year.

According to the amendments, the end-of-quarter payment of HQS should amount to RUB 750,000, although the new requirement comes into force on March 1, 2024. According to the position of the Ministry of Internal Affairs, which is supported by the Ministry of Economic Development, the payment requirement for the end of the first quarter of 2024 should be fully met. The written confirmation from the Ministry of Internal Affairs is requested in this respect.

### RECOMMENDATION:

To review the existing amendments to the legislation and choose the best option for the company in order to avoid violation of the new requirements: whether it will be a salary increase as of January 1, 2024, or a difference payment with further revision of the salary level according to the law.

**3.** Due to the changes coming into force on January 7, 2024 (paragraphs 15 and 18.1 of Article 13.2 of Law No. 115-FZ), HQS must apply for a work permit within 30 calendar days from the date of the decision of the Ministry of Internal Affairs to issue or extend a work permit. This period may be extended for no more than 30 calendar days if there are valid reasons and a corresponding request from the employer.

**In practice, the stipulated deadline for applying for a ready work permit is sometimes impossible to meet, as the foreign citizen and his employer need to:**

- › apply for an invitation, which takes 14 working days;
- › obtain a work visa from a foreign consulate (up to 15 days);
- › enter Russia (may take several days);
- › pass migration enrollment (may take time – depending on the availability of free time slots to register with the Ministry of Internal Affairs at mos.ru to submit a notification); and undergo a medical examination (passing the examination and obtaining medical certificates takes up to 12 days);
- › be photographed and fingerprinted (1 day).

Therefore, it can be argued that sometimes in practice HQS lacks the allotted 30 calendar days to obtain a work permit.

The requirement to obtain a work permit within 30 calendar days from the date of the Ministry of Internal Affairs' decision to *extend it* would contradict another provision of Law No. 115-FZ, which establishes a time limit for a repeated medical examination and submission of medical documents to the Ministry of Internal Affairs (see Article 5, Paragraph 3, Item 19). This norm stipulates that the deadline for the medical examination and submission of medical documents to the Ministry of Internal Affairs is 30 calendar days from the date of the decision to extend the validity of the work permit or from the date of entry of the HQS into Russia (if expatriate was outside Russia on the date of the decision).

**PROPOSAL:**

It is necessary to correlate these deadlines in the legislation so that a HQS can obtain a work permit either within 30 days from the date of the decision to extend the work permit or within 30 days from the date of entry into Russia (in case he/she is abroad).

As it is becoming increasingly important for HQS to have information on the date of the Ministry of Internal Affairs' decision to issue or extend a work permit, the Committee suggests that an official procedure be established for notifying HQS on that date, for example through a personal account on the Gosuslugi website. According to the Ministry of Internal Affairs, the relevant amendments to its Regulation No. 541 dated August 1, 2020 are currently being prepared.

**4. From 2024, HQS will be entitled to an indefinite residence permit (IRP) which is not tied to HQS status. This will be possible if three conditions are met:**

- › At least 2 years of work in the Russian Federation in the status of HQS.
- › Before applying for an indefinite residence permit – the obligation to reside in the Russian Federation on the basis of a residence permit tied to the period of validity of the HQS work permit, but not less than two years.
- › Proper payment of taxes and charges during the specified two-year period of HQS work.

**RECOMMENDATION:**

To ensure compliance with the established requirements for obtaining an indefinite residence permit for HQS.

**5. Issues raised by the new Federal Law on Citizenship**

On October 26, 2023 Federal Law No. 138-FZ "On Citizenship of the Russian Federation" of 28.04.2023 came into force, replacing the previous Law No. 62-FZ "On Citizenship of the Russian Federation" which corrects the procedure for filing notifications by Russian citizens on obtaining a foreign residence permit or citizenship.



**As it is becoming increasingly important for HQS to have information on the date of the Ministry of Internal Affairs' decision to issue or extend a work permit, the AEB Migration Committee suggests that an official procedure be established for notifying HQS on that date, for example through a personal account on the Gosuslugi website.**



### What has changed in the procedure for submitting notifications:

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- › The right to notify through the Ministry of Foreign Affairs (MFA) departments abroad has appeared; at the same time this notification replaces the notification to the Ministry of Internal Affairs (MIA).
- › The deadline for notification submission to the MIA upon the date of arrival to Russia has been extended from 30 to 60 calendar days.
- › The provision of sending the notification by Russian Post was removed from the law.
- › Paper notifications can be submitted directly to the Main Department of Internal Affairs of the Ministry of Internal Affairs of Russia, to the migration department of the territorial body of the Ministry of Internal Affairs of Russia at the regional or district level in the residence place of the applicant. It's possible to supply a notification on paper or in electronic form via the Gosuslugi portal.

New forms of notifications and lists of annexes to notifications are established by Presidential Decree No. 889 of November 22, 2023.

### The main content of the new law repeats the previous one, but the following changes were made in the new version:

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- › The fact of being married to a Russian citizen for more than three years, working for one year in a specialty from

the list of the Ministry of Labor, persons who are native speakers of the Russian language (SRL), foreign citizens who invested in the Russian economy were removed from the grounds for acquiring citizenship.

- › The list of grounds for acquiring Russian citizenship by birth was extended.
- › The fact of residence on the territory of the RSFSR (and not only the fact of birth) and a "red diploma" from a Russian university were added to the grounds for acquiring citizenship.
- › Citizens of the Russian Federation may be recognized those who have served in the Russian Armed Forces, Russian ministries and departments, servicemen and cadets who have sworn allegiance to the USSR or the Russian Federation and who, as of February 6, 1992, were serving in military units under the jurisdiction of the Russian Federation located on the territories of other states.

From 2024, new forms (new editions) of various applications, petitions and notifications used in connection with the performance of labor activities by foreign citizens in Russia will be established.

The AEB Migration Committee continues to monitor changes in migration legislation and practice and inform members of changes in a timely manner.