

ANDREY GORODISSKY & PARTNERS

NEWSLETTER

REVIEW OF THE NOTABLE CHANGES IN LEGISLATION

No. 12/2009
December 2009

Limited Liability Companies

On December 17, 2009 the Federal Law "On Amendment of Article 5 of the Federal Law "On Amendments to Part One of the Civil Code of the Russian Federation and Certain Legislative Acts of the Russian Federation", No. 310-FZ, was adopted, which repealed the time limit for updating charters of limited liability companies in compliance with requirements of law. Now such updating is to be made parallel to any first amendments to the charter after enactment of the Law.

The Law went into force on December 22, 2009.

State Registration of Real Property Rights and Transactions

On December 21, 2009 the Federal Law "On Amendments to Certain Legislative Acts of the Russian Federation", No. 334-FZ was adopted, which amends some provisions of the Federal Law "On State Registration of Real Estate Rights and Transactions" and the federal Law "On State Cadastre of Real Property".

The Law allows the submission of a request for information from the Consolidated State Register of Rights by mail delivery. It is required however that the signature on the request and copies of any documents attached should be certified by a notary public. The Law also allows the submission of a request electronically. Such request should be certified by an electronic digital signature of a duly authorized person and any electronic attachments to the request should be certified as required by an appropriate regulatory authority for state registration of rights.

Summary information, including analytical one, from the Consolidated State Register of Rights may be posted by on the website of an authorized government body.

A request regarding state registration of rights and other documents may be submitted by the applicant personally or via mail with value declared for delivery, list of enclosures and return receipt requested. In the event of delivery by mail the applicant's signature must be notarized. An application for state registration of rights and other documents may be submitted together with an application for recordation in the state cadastre.

Until January 1, 2013 the submission of a cadastre passport will be required for registration of rights to a building, structure, premises or unfinished facility. The submission of a cadastre passport will not be required if a document describing the real property (such as cadastre passport or property lay-out) was previously submitted and included in the relevant file. If any update concerning a particular real property needs to be made to Section 1 of the Consolidated State Register of Rights, such update will be made without a new registration of such property on the basis of the property owner's application and a cadastre passport, submitted by the owner, which contains updated information. After January 1, 2013 a cadastre passport will only be required if no information on the relevant property is contained in the state cadastre of real property.

Recordation of any alterations to a transformed real property or, where applicable, de-recordation of a transformed real property will not require any application and will be performed within three business days after the state registration of rights to the new real property resulting from such transformation. Any alterations concerning land plots will be recorded likewise.

The transitory period provisions of the Federal Law "On State Cadastre of real Property" will continue in force until January 1, 2013.

The Law will go into force as of March 1, 2010, with the exception of some provisions that already went into force on December 23, 2009.

Land Law

On December 27, 2009 legislators adopted the Federal Law "On Amendment of Articles 2 and 3 of the Federal Law "On Enactment of the Land Code of the Russian Federation" and Article 7 of the Federal Law "On Amendments to Legislative Acts of the Russian Federation Regarding the Terms and Procedure for Acquisition of Rights to State-Owned or Municipality-Owned Land Plots", No. 342-FZ.

The time limit for sale of stated-owned or municipality-owned land plots to the owners of real property on such land plots has been extended until January 1, 2012. Similarly, the time limit for re-registration of the right of perpetual (timeless) use of such land plots, whether leased or owned, has been extended until January 1, 2012. For land plots where electric power transmission lines, communications lines, roads or other transportation, communications and utilities lines run, the time limit for re-registration of the perpetual use rights has been extended until January 1, 2015.

Any revision of the annual rental under a lease agreement is only allowed in connection with a change of the cadastre value of the relevant land plot.

The effective date of Article 7.34 of the Russian Code of Administrative Offences, which imposes administrative liability for non-compliance with the time limits and procedure for re-registration of the perpetual use rights to land plots, has been postponed to January 1, 2013.

The Law went into force on December 29, 2009.

Antimonopoly Law

On December 24, 2009 the Government Resolution "On Amendments to Certain Resolutions of the Government of the Russian Federation", No. 1083, was adopted.

The Resolution sets new thresholds for financial organization's assets, any excess of which requires a prior approval of the antimonopoly authority for transactions with shares (participation interests) or assets of or rights with respect to financial organizations. In particular, for leasing companies such limit is 3 billion rubles, while for professional participants of securities markets and managing companies of investment foundations the limit is 200 million rubles.

The Resolution also sets thresholds for financial organization's assets, an excess of which requires the giving notice of any transactions consummated and other activities of financial organizations to the antimonopoly authority. For credit organizations such limit is 2 billion rubles, for leasing organizations 1 billion rubles and for managing companies of investment foundations 100 million rubles.

The threshold for assets of a credit organization, an excess of which requires a prior approval of the antimonopoly authority for creation of a credit organization or transactions with shares (participation interests), assets of or rights with respect to a credit organization, has been increased up to 25 billion rubles.

Law on Commerce

On December 28, 2009 legislators adopted the Federal Law "On the Fundamentals of State Regulation of Commerce in the Russian Federation", No. 381-FZ, which governs relations between government agencies, local administrations and business entities in connection with organization and carrying on commercial operations, as well as relations arising between business entities in the course of their commercial operations.

The Law purports *inter alia* to ensure the unity of economic space in Russia, development of commerce, observance of rights and legal interests of business entities and distribution of powers among regulatory authorities for state regulation of commerce.

The Law does not apply to foreign trade operations, commodities exchange trading, retail of goods, sale and purchase of securities, real property, energy resources or limited circulation goods.

The Law identifies the methods of government control of commerce, which include setting requirements for an organization and trade operations, antimonopoly regulation, information support and government surveillance.

It also establishes the requirements for an organization and trade operations as well as business entities' rights, such as the right to set prices for goods offered for sale at its own discretion. Provided that, if during a 30-day period the prices for certain types of basic consumer food products of social significance rise by thirty or more percent in the territory of a constituent of the Russian Federation, the Russian Government may set upper limits for retail prices for sale of such goods in such territory for a period of up to 90 calendar days. The list of basic consumer food products of social significance is determined by the Russian Government.

The Law determines business entities' rights and obligations in connection with entry and performance under foodstuff delivery contracts. In particular, business entities are required to ensure access to information about the terms of selection of a contracting party for entry into such contract, whether by posting such information on the entity's website or by providing such information within 14 days upon receipt of the relevant request. A consideration payable to a trading business entity for purchase of a certain amount of food products may not exceed 10 % of the value of such products. For some types of socially significant food products, as determined by the Russian Government, no such consideration may be paid. It is also prohibited to include any other consideration in the price of such contract. The Law establishes the rules of determining the due time for payment for food products where the parties have agreed on payment for the goods after delivery thereof. The contract may not prohibit the replacement of a party to an obligation by assignment of the relevant claim. Food product advertising services and similar services may only be provided under a separate services agreement and may not be included in the delivery contract.

The Law contains provisions aimed at the antimonopoly regulation of commercial activities. In particular, no business entity may create discriminating conditions or bind its contracting party by a prohibition against entry into similar contracts with third parties or an obligation to give notice of any such contracts with third parties or by other provisions referred to in the Law.

A business entity being a food retail chain which has a more than 25% share, in monetary value, in the overall volume of food products sold during a previous financial year in the territory of

an administrative unit (such as a constituent of the Russian Federation or a municipality or a city district) may not purchase or lease any additional trade space in such administrative unit for its trading operations. Any transaction made in violation of the above restriction will be void.

The Law also sets the requirements for positioning of non-stationary points of sale, arrangement of fairs and sale of goods at them, determines the goals and ways of trade business development, as well as provides for creation of a government information support system for the trade business sector.

The Law will go into force as of February 1, 2010.

Personal data

On December 27, 2009 the Federal Law "On Amendment of Articles 19 and 25 of the federal Law "On Personal Data", No. 363-FZ, was adopted, which has repealed the requirement regarding the use of encryption tools for processing of personal data. The time limit for bringing personal data information systems in compliance with the law requirements has been extended until January 1, 2011.

The Law went into force on December 29, 2009.

*

*

*

This newsletter is not intended to provide legal advice and/or any other form of legal assistance that may be rendered by attorney-at-law to client. The exclusive purpose of this review is to make aware its recipient of certain recent changes in Russian laws and regulations, and of the development of law application practice. Any use of the information contained herein for particular purposes may require more detailed case-specific explanations. Further information can be obtained via +7 (495) 933 75 67 or office@agp.ru

ANDREY GORODISSKY & PARTNERS

Ul. Znamenka 13, Bldg. 3, 3rd Floor, Moscow 119019, Russia
tel.: +7 (495) 933 7567 e-mail: office@agp.ru
fax: +7 (495) 697 9226 Internet: www.agp.ru