

July 2016 saw several important events relating to regulation of labor relations. The federal laws signed in July by the President of the Russian Federation introduce amendments to the RF labor laws, concerning various issues, including: labor compensation and employer's liability for a delay in payment of salaries or wages, regulation of labor of employees of microenterprises, introduction of the concept of independent assessment of qualification. Furthermore on July 1 amendments to the RF Labor Code, relating to application of professional standards took effect.

Please find below our Newsletter covering the most significant changes in the labor legislation, that became effective and were enacted in July 2016.

1 Changes Relating to Labor Compensation

The Federal Law of July 03, 2016 No.272-FZ¹ that will **go into force on October 03, 2016** introduces amendments to the RF labor laws, relating to legal regulation of labor compensation and liability for violations connected with payment of salaries or wages. In particular:

1. Provisions of Part 6 of Article 136 of the RF Labor Code (LC) have been made more specific by adding a requirement to set out the precise salary payment date in internal work order regulations, collective agreement or employment contract, which date shall fall on a 15-calendar-day period beginning from the last day of the period for which the salary is paid.
2. Employer's liability for a delay in payment of salaries or wages has been increased. Amended Article 236 of the RF LC provides that in the event of a delay employer must pay the employee interest at the rate of at least 1/150 of the key interest rate of the RF Central Bank for each day of delay. Previously interest was charged based on the refinancing rate, namely 1/300 of such rate for each day of delay.
3. The limitation period for bringing before court of disputes over non-payment or partial payment of a salary or other amounts payable to an employee has been extended to one year. Pursuant to amendments to Article 392 of the RF LC, an employee may seek resolution through court of an individual labor dispute over non-payment of salary (other amounts), within one year of the day on which such payment became due. It is specifically established that this limitation period also applies to disputes over payment of salary upon employment termination.
4. A separate item on administrative liability for non-payment/partial payment of salary or other amounts payable to employee within the established time limit (unless such acts do not constitute a criminal offence) and for setting the salary below the bottom limit established by labor laws has been added to Article 5.27 of the RF Administrative Offences Code.

¹ Federal Law of July 03, 2016 No. 272-FZ "On Amendment of Certain Legislative Acts of the Russian Federation in Connection with Increase of Liability for Violation of Legislation Specifically Pertaining to Labor Compensation"

Commitment of this administrative offence may entail imposition of a fine on the employer, being a legal entity, in an amount from 30,000 to 50,000 rubles. Employer's officers may incur admonition or a fine of up to 20,000 thousand rubles. In the event of a repeated commitment of such offence an increased liability is provided for: a fine of up to 30,000 rubles for officials and up to 100,000 rubles for legal entities.

2

Specifics of Regulation of Labor of Employees of Microenterprises

As of January 01, 2017 new chapter 48.1 "Specifics of Regulation of Labor of Individuals Employed by Businesses Falling under the Microenterprises Category"² will be added to the RF LC. Thereunder from the next year microenterprises will be granted the right to do without adoption of internal regulations relating to labor relations (internal work order regulations, labor compensation and bonus scheme, shift schedules, leave schedules, etc.). However matters that as a general rule are to be covered by organization's internal regulations, in case of microenterprises are to be included, in the absence of such regulations, in employees' employment contracts. A standard form of such contracts will be developed and approved by the RF Government of the.

We remind that in order to be classified among microenterprises a small business must meet the following criteria: average number of staff - maximum 15 individuals; proceeds from business activities net of VAT - maximum 120 mln. rubles per year. Microenterprises must be recorded in the Consolidated Register of Small and Medium Businesses³.

Under new article 309.1 of the RF LC, in the even the employer loses its status of a microenterprise, it must bring the regulation of labor relations at its enterprise in line with the general regulations within four months of the date of relevant changes made in the Consolidated Register of Small and Medium Businesses.

3

Upper Labor Compensation Thresholds for Executive Employees

Federal Law of July 03, 2016 No 347-FZ⁴ introduces amendments to Article 145 of the RF LC, providing for mandatory setting of the maximum ratio of average monthly salaries of executive employees (their deputies, chief accountants) to those of other employees of governmental and municipal institutions, state unitary enterprises, municipal unitary enterprises, state extra-budgetary funds, local mandatory health insurance funds, and state corporation and companies with 50 and more percent of governmental or municipal participation. Such maximum ratios will be set by a competent public authority, local self-government body, organization exercising functions and powers of the founder in accordance with regulations issued by the RF Government, RF constituents and local self-government bodies. A provision is made for accountability of CEOs of state enterprises for nonobservance of the maximum ratio of salaries of their deputies/chief accountant and those of other employees. Specifically, such violation constitutes the ground for termination of CEO's employment contract. A relevant amendment was made to Article 278 of the RF LC. The RF government, regional and local authorities are

² Federal Law of July 03, 2016 No. 348-FZ "On Amendment of the Labor Code of the Russian Federation as it Pertains to Specifics of Regulation of Labor of Individuals Employed by Businesses Falling under the Microenterprises Category"

³ See Articles 4, 4.1. of the Federal Law of July 24, 2007 No. 209-FZ "On Development of Small and Medium Businesses in the Russian Federation"

⁴ Federal Law of July 03, 2016 No. 347-FZ "On amendment of the Labor Code of the Russian Federation"

granted the right to approve the list of organizations where terms of labor compensation for executive employees may be set without observance of the established maximum ratios.

The federal law establishes that the maximum ratios to be set in accordance with the new provisions of Article 145 of the RF LC, shall be applicable starting from January **01, 2017**.

4

Procedures for Application of Professional Standards

On July 01, 2016 amendments to the RF LC, introduced by Federal Law of May 02, 2015 No. 122-FZ⁵ went into force. The said amendments concern procedures for application of professional standards. As a general rule, professional standards are of advisory nature and may be used as the basis for determination of requirements to employees' qualification and development of job descriptions. The requirements set by professional standards become mandatory where the RF LC, federal laws and regulations establish that for the performance of certain work an employee must meet certain qualification criteria (Part 1 of Art. 195.1 of the RF LC), or where in accordance with the RF LC or other federal laws the performance of work associated with such positions, professions, specialism is connected with the provision of compensations or benefits or with restrictions (Art. 57 of the RF LC).

5

System of Independent Assessment of Qualification

Since January 01, 2017 the system of independent assessment of qualification of employees and individuals seeking certain jobs will start functioning in the RF. Independent qualification assessment introduced by the Federal Law of July 03, 2016 No. 238-FZ⁶ is a procedure for certification of conformity of applicant's qualification with provisions of a professional standard or qualification requirements, established by other regulations. Under the new law the independent assessment will be carried out by specialized centers for assessment of qualification in the form of a professional examination, upon successful passing of which a certificate of qualification will be issued to the applicant. Information about issued certificates will be entered in a special register. In the event of unsatisfactory results of the examination the applicant will receive a relevant opinion, including recommendations. The applicant may pass such assessment on his/her own initiative and at his/her own expense or by instruction and at the expense of the employer.

In connection with the enactment of the Federal Law "On Independent Assessment of Qualification" amendments were also made to the RF LC⁷ and the RF TC⁸, whereunder:

- Employer when sending an employee to assessment of qualification must reserve for the employee his/her place of employment (position) and average salary, and reimburse the employee for travel expense, in case for the passing of the assessment the employee needs to go to another locality;

⁵ Federal Law of May 2, 2015 N 122-FZ "On Amendment of the Labor Code of the Russian Federation and Articles 11 and 73 of the Federal Law "On Education in the Russian Federation"

⁶ Federal Law of July 03, 2016 No. 238-FZ "On Independent Assessment of Qualification"

⁷ Federal Law of July 03, 2016 № 239-FZ "On Amendment of the Labor Code of the Russian Federation in Connection with Enactment of the Federal Law "On Independent Assessment of Qualification"

⁸ Federal Law of July 03, 2016 № 251- FZ "On Amendment of Part Two of the Tax Code of the Russian Federation in Connection With Enactment of the Federal Law "On Independent Assessment of Qualification"

- Employer’s expenses connected with sending employees to assessment of qualification fall within miscellaneous costs related to manufacture and sale of goods (works, services), reducing the taxable base. In the event an employee has passed assessment of his/her qualification on his/her own initiative and at his/her own expense, he/she is entitled to a social tax deduction in the amount of actually incurred expenses.

6

Increase of the Minimum Monthly Wage to 7,500 Rubles.

The Federal Law of June 02, 2016 No. 164-FZ⁹ that went into force on July **01, 2016** establishes the minimum monthly wage in the amount of 7,500 rubles.

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⁹ Federal Law of June 02, 2016 No. 164-FZ “On Amendment of Article 1 of the Federal Law “On Minimum Wage”