

ECBEL

Russia: Employment Law Developments

January 2011

Employment Law—Updates

Salary

On 23 December 2010 the President signed Federal Law No. 382-FZ, amending the Criminal Code provisions on non-payment of salary.

The Law amends the Criminal Code and, in particular: (i) diversifies liability for salary non-payment in full and in part (i.e., payment of less than 50 percent of the amount due); (ii) extends the list of persons who may be subject to liability to include, among others, the head of a branch or representative office of a company; and (iii) introduces criminal liability for paying salary in an amount below the federal minimum monthly wage (currently, RUB 4,330).

The following penalties may be imposed on the company's executives because of their bad faith or personal interest:

- For partial salary non-payment for more than three months: a fine in an amount of up to RUB 120,000 (approximately US\$3,930) or income of the accused person for up to one year, or disqualification for up to one year or imprisonment for up to one year.
- For salary non-payment in full for more than two months or payment of salary below the federal monthly wage for more than two months: a fine in an amount of up to RUB 500,000 (approximately US\$16,390) or income of the accused person for up to three years, or imprisonment for up to three years with or without disqualification for up to three years.

The criminal penalties may be more severe if the breach has caused grave consequences.

The law will enter into force on 7 January 2011.

Moscow Minimum Monthly Wage

On 2 December 2010 the Moscow Government, Moscow Labor Unions and Employers Unions signed an agreement setting a minimum monthly wage in Moscow for 2011.

According to Article 133 of the Russian Labor Code, the monthly salary of an employee who has worked for the required working time period and has performed his/her job duties may not be paid in an amount less than the minimum monthly wage. As of 1 January 2009, the federal minimum monthly wage is RUB 4,330 (approximately US\$142).

However, Russian regions have the right to set higher minimum monthly wages for their relevant territories. The agreement only sets forth a minimum monthly wage for Moscow.



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As of 1 January 2011, the minimum monthly wage in Moscow is RUB 10,400 (approximately US\$340) and, as of 1 September 2011, it will be raised to RUB 10,900 (approximately US\$360).

The minimum monthly wage rate only applies to salary payments and temporary disability allowances. Taxes, fines and other mandatory payments are calculated in multiples of 100 rubles (approximately US\$3.30).

For more details on this and other employment legislation developments, please see our website: ecbel.whitecase.com.

Personal Data

On 23 December 2010 the President signed Federal Law No. 359-FZ, amending the Law on Personal Data.

The term for bringing personal data information systems created before 1 January 2011 into compliance with the Law on Personal Data was shifted to 1 July 2011.

The law will enter into force on 1 January 2011.

Employment Law— Foreign Citizens: Quotas for Foreigners' Work Permits and Invitations

On 20 September 2010 the Ministry of Public Health and Social Development ("MHSD") issued Orders No. 811n and No. 812n on the apportioning of the 2010 quotas for foreign citizens' work permits and invitations to enter Russia for employment among Russia's regions.

The Orders were registered with the Ministry of Justice on 5 and 7 October 2010.

Order No. 811n amends MHSD Order No. 1008n dated 22 December 2009 (discussed in our update for 21 December 2009 – 10 January 2010). It amends the quota for foreign citizens' work permits for certain regions. The respective quota for Moscow Region is increased from 100,901 to 108,529 work permits. The quota for Moscow remains unchanged. The national 2010 quota reserve (i.e., the number of work permits that may be issued in addition to the above quota) has been reduced to 526,807 work permits.

Order No. 812n amends MHSD Order No. 1009n dated 22 December 2009 (discussed in our update for 11 – 17 January 2010). It amends the quota for invitations

to foreign citizens to enter Russia for employment purposes for certain Russian regions. The respective quota for the Moscow Region has been increased from 18,312 to 19,128 invitations. The quota for Moscow has been reduced from 94,243 to 93,847 invitations. The national 2010 quota reserve (i.e., the number of invitations that may be issued in addition to the above quota) has been reduced to 167,502 invitations.

The Orders entered into force on 19 and 24 October 2010.

Quota for Foreigners' Work Permits and Invitations

On 12 November 2010 the government adopted Resolution No. 895, approving the necessity in foreign employees in 2011 and the 2011 quotas for foreign citizens' work permits and invitations.

The necessity in foreign employees in 2011 is set at 1,745,584 persons. The Government set the 2011 quotas at 1,745,584 work permits and at 499,650 invitations for foreign citizens.

The Resolution entered into force on 27 November 2010.

Employing Foreigners in the Retail Sector

On 27 November 2010 the government adopted Resolution No. 947, approving the permissible proportion of foreign workers that may be employed in retail sales and sports in Russia in 2011.

The Resolution specifies the proportion of foreign workers who may be employed in retail sales in Russia in 2011. In particular, according to the Resolution, foreigners are not allowed to be involved in retail sales: (i) of alcoholic beverages, including beer; (ii) of pharmaceuticals; (iii) at stalls and markets; and (iv) outdoors (the same restrictions were established for 2010).

The Resolution entered into force on 16 December 2010.

Please contact Nicholas Greenacre or any member of White & Case's Executive Compensation, Benefits, Employment and Labor Practice Group if you have any questions or comments or you would like an additional copy of this or other issues. For address changes or to receive this publication by e-mail, please send your information to Ecbel@whitecase.com.

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