

Russia introduces new regulations for foreign employees

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On July 25, 2008, a new administrative regulation came into force in Russia that issues conclusions for attracting a foreign workforce and issuing work permits for foreign citizens.

The new regulation was approved by: Order No. 1 of the Federal Migration Service; Order No. 4 of the Ministry of Health and Social Development of the Russian Federation; Order No. 1 of the Ministry of Transport of the Russian Federation; and the State Fishery Committee of the Russian Federation on January 11, 2008 (registered by the Ministry of Justice of the Russian Federation on April 9, 2008 No 11480). The regulation was officially published in the "Bulletin of normative acts of the federal executive bodies" No. 28 on July 14, 2008.

The regulation introduces a new process for obtaining conclusions with regard to attracting a foreign workforce and issuing work permits for foreign citizens. According to the regulation, a "one-window" system will replace the two-step procedure for obtaining conclusions with regard to attracting a foreign workforce and obtaining work permits. The Federal Migration Service, which receives all the documents from the applicants, will internally send requests to the Federal Employment Service.

The new regulation in practice

The basis for initiating the provision of governmental service is for an employer or a principal to file an application with the Federal Migration Service or its local office for a permit to engage and use a foreign workforce, together with the documents envisaged in the administrative regulation. The official at the Federal Migration Service or its local office who is responsible for accepting documents, will check whether the documents are available, complete, free from forgery, misstatement and misrepresentation, and compliant in terms of form.

After the documents have been checked, the official responsible for accepting documents will decide whether to provide or deny provision of governmental service on the grounds that the administrative regulation has established and will inform the employer or the principal of the decision. If the decision is positive, that official, on or before the day following that on which the documents were accepted, will draw up and submit a request for an opinion on the engagement and use of a foreign workforce to the state employment service's local office in the subject (subjects) of the Russian Federation where the foreign workforce is intended to be used.

After that opinion has been obtained, an official at the Federal Migration Service or its local office will consider the distribution of the requested employees by profession, speciality and position based on whether or not it is expedient to engage and use them in that subject of the Russian Federation.

If the opinion from that service decides that it is expedient to engage and use a foreign workforce, the official will provide, within 24 hours, the Federal Migration Service with the documents necessary to adopt a decision to issue a permit to engage and use a foreign workforce. Processing and issuing permits is the responsibility of the Federal Migration Service and its local offices.

The official at the Federal Migration Service who is responsible for printing out permits to engage and use a foreign workforce will put, within two days of receiving them, the details contained in a permit to engage and use a foreign workforce onto an automated system. These details include the territory that the permit covers, the number of employees engaged, their profession (specialty, position), their nationality, the term of the permit, the basis for issuing the permit and special conditions, if any, such as intergovernmental or other international treaties. The official will also print out the text of the permit in advance and will submit it, together with the documents for verification of the above details.

The official at the Federal Migration Service who is responsible for verifying the above details must, within two days of receiving the documents, verify the details of an employer or a principal who wants to engage a foreign workforce, the authenticity of the submitted documents and the bank details, and the accuracy of the text printed out in a specimen permit. If in doubt on what to decide, the official should report the material to the head of the foreign workforce permits department who will make the decision. If the submitted documents are alleged to have been forged, the official who is responsible for verifying the documents should immediately, within one day of discovering the forgery, report this in writing to the head of the department responsible for investigating the employer or the principal that has applied for a permit to engage and use a foreign workforce. If the submitted documents are authentic, the official at the Federal Migration Service who is responsible for printing out permits, will hand the processed permits over to the head of the unit for final verification and sign-off.

A processed permit to engage and use a foreign workforce, within 12 business days from the date on which officials at the Federal Migration Service who are responsible for accepting documents accepted it, is sent to the Federal Migration Service's local office that originally sent the documents of that employer or that principal. The result of the governmental service is that the employer or the principal can obtain a permit to engage and use a foreign workforce.

Obtaining a work permit

To obtain a work permit for foreign citizens, a principal should submit the documents established in the administrative regulation directly to the Federal Migration Service or its local office. The documents that are required to obtain a work permit (a personal plastic card) may be submitted simultaneously with the submitting of the documents required to obtain a permit to engage and use a foreign workforce.

All phases of the document processing are recorded in the *Troudovaya Migratsiya*, an automated sub-system of the central foreign citizens data bank.

The term for obtaining work permits will remain the same and should not exceed 30 days. The practical side of implementing the new regulation might take some time, as there are a lot of internal changes to be applied to the Federal Migration Service.

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Sergei Yuriev is a partner in the Moscow office of CMS Cameron McKenna, leading the dispute resolution team. Sergei has over 10 years' experience of advising clients on general commercial, corporate, employment, and environmental law issues; and on dispute resolution. Sergei advises Russian and multinational companies on various employment law issues, including employment aspects of corporate restructuring; outsourcing and secondment contracts; immigration and work permit issues; individual employment and collective bargaining agreements; employment restructuring; trade union issues; and, relocating personnel to/from Russia.

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