We would like to present the overview of the most important legislation changes in labor law for 2016.

Changes to labor law on Amendments to Certain Legislative Acts of the Russian Federation on Issues of Increasing Employer Penalties for Violations of Law Concerning Remuneration of Labor

Other changes in labor legislation

Recent changes in migration law from 2016 to date

Changes to labor law on Amendments to Certain Legislative Acts of the Russian Federation on Issues of Increasing Employer Penalties for Violations of Law Concerning Remuneration of Labor

Some of the most substantial changes to labor law in 2016 were made by Federal Law No. 272-FZ on Amendments to Certain Legislative Acts of the Russian Federation on Issues of Increasing Employer Penalties for Violations of Law Concerning Remuneration of Labor of July 3, 2016 ("Federal Law 272-FZ").

1. Federal Law 272-FZ amended Article 136 of the RF Labor Code to specify more rigidly defined time limits for salary payments: as previously, salaries must be paid at least once every two weeks; however, starting October 3, 2016, salaries must also be paid within 15 calendar days of the end of the period for which they accrued. In other words, the final payment of salaries for October must be made on or before the 15th of November. The new version of Article 136 of the RF Labor Code provides that specific salary payment dates are to be set in the company’s internal labor regulations, a collective agreement or the employment contract; i.e., now the employer has the ability to set specific paydays either in the internal labor regulations or in the employment contract, whereas the previous wording of the article allowed for ambiguous interpretation and so was interpreted by the state labor inspectorate as a requirement to set paydays in both documents, and the inspectorate interpreted an attempt to set those dates in only one document (either the internal labor regulations or the employment contract) as a violation of the labor law, with all of the ensuing negative consequences for the employer and its officers.

2. Federal Law 272-FZ sets a higher penalty for an employer for failing to comply with the time limits for paying salaries and other payments to employees. We remind readers that if an employer delays payment of any amount that is due to an employee, the employer is required to pay such amounts with interest (monetary compensation).
for each day of delay. As of October 3, 2016, the monetary compensation will be calculated on overdue amounts at a rate of not lower than one one-hundred-fiftieth of the Central Bank of Russia’s key rate then in effect, from the day following the scheduled payment date until the day of actual payment, inclusive (previously the minimum amount of compensation was one three-hundredth of the Central Bank of Russia refinancing rate).

3. Federal Law 272-FZ amended Article 392 of the RF Labor Code. As of October 3, 2016, there is a new time period (one year) within which employees in Russia can file claims in court over nonpayment or incomplete payment of salaries and other payments owed to employees (including severance pay). This one-year limitation period for filing “monetary” claims against an employer is now the longest in the labor law. Employers should take note that within this one-year period employees can file claims over nonpayment/incomplete payment of any amounts (salary, vacation pay, business trip allowance, bonuses, severance pay, etc.), including for payment of the regional coefficient and percentage increase for working in regions of the Far North and other areas with special climate conditions. We remind readers that the other statutory time limits (other than for “monetary” claims) for filing claims in court against an employer are (i) one month in disputes over dismissal, and (ii) three months in all other disputes related to violating employee rights.

4. As of October 3, 2016, with the entry into force of part 6.3 of Article 29 of the RF Civil Procedure Code, employees have been given the ability to file claims for restoration of their labor rights with a court at their place of residential registration. Previously an employee could file with a court either at the location of the employer (or its structural subdivision where the employee worked), or at the place where the employment contract was performed, if the place of performance was stated in the employment contract and differed from the employer’s location.

5. A new special offence for violating the procedure for setting or paying salaries was put into effect. October 3, 2016, saw the entry into force of parts 6 and 7 of Article 5.27 of the RF Code of Administrative Offenses (the Administrative Code), which provide penalties for:

- nonpayment or incomplete payment within the established time period of salaries and other payments made in employment relationships, if those actions are not a criminal offense, or setting a rate of salary lower than provided for by law: in the form of a warning or the imposition of an administrative fine of between RUB 10,000 and RUB 20,000 on officers and of between RUB 30,000 and RUB 50,000 on legal entities;

- a similar repeated offense: in the form of an administrative fine of between RUB 20,000 and RUB 30,000 on officers or disqualification for a period of one to three years; and in the form of an administrative fine of between RUB 50,000 and RUB 100,000 on legal entities.

6. Federal Law No. 272-FZ also amended Article 360 of the RF Labor Code, in accordance with which the basis for the state labor inspectorate to conduct an unscheduled audit is, inter alia, information received by the inspectorate about labor law violations by employers which have resulted in nonpayment or incomplete payment of salaries and other payments owed to employees within the established time, or setting a rate of salary lower than provided for by labor law.

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Other changes in labor legislation

1. The minimum wage was increased. As of July 1, 2016 it became RUB 7,500 per month, and as of July 1, 2017 it will go up to RUB 7,800 per month (we remind readers that the minimum wage in Moscow is RUB 17,561).

2. Federal Law No. 122-FZ on Amendments to the Labor Code of the Russian Federation and Articles 11 and 73 of the Federal Law on Education in the Russian Federation of May 2, 2015, added Article 195.3 to the RF Labor Code (which entered into force on July 1, 2016). In accordance with Article 195.3, professional standards are mandatory with respect to qualification requirements in cases where the RF Labor Code, other federal laws and other legal regulatory acts of the Russian Federation set requirements for the qualifications an employee needs to have to
3. Federal Law No. 434-FZ on Amendments to Article 142 of the Labor Code of the Russian Federation of December 30, 2015, sets forth the rule (which had already been applied by the courts in practice for several years) that when an employee stops working due to a delay of more than 15 days in payment of salary, the employee continues to be entitled to average earnings for the duration of the work stoppage.

4. Federal Law No. 348-FZ on Amendments to the Labor Code of the Russian Federation with respect to the Specifics of Regulating the Labor of Persons Working for Small Business Employers that are Considered Microenterprises of July 3, 2016, which entered into force on January 1, 2017, sets out the specifics of legal regulation of employment relationships at microenterprises. A small business employer that is classified as a microenterprise can elect not to adopt all or some of the by-laws (so-called local normative acts) that contain labor law provisions. If so, then in order to regulate employment relationships, the employer’s employment contracts with its employees must include terms regulating the issues that, according to labor law and other legal regulatory acts containing labor law provisions, are ordinarily required to be regulated by the employer’s by-laws. In that case the employment contracts are concluded using the standard form approved by Russian Federation Government Resolution No. 858 on the Standard Form of the Employment Contract to Be Concluded between an Employee and an Employer that is a Small Business Considered a Microenterprise of August 27, 2016.

Recent changes in migration law from 2016 to date

- The functions of the Federal Migration Service were finally transferred to the RF Interior Ministry by the end of 2016, as prescribed by Decree No. 156 of the President of the Russian Federation on Enhancement of Public Administration in the Sphere of Control of Drug Trafficking, Psychotropic Substances and Their Precursors and in the Sphere of Migration of April 5, 2016. All functions in the field of migration are now entrusted to the newly created General Administration for Migration Issues of the RF Interior Ministry (in Russian, Главное управление по вопросам миграции Министерства внутренних дел Российской Федерации).

- Since 2016, temporary residence permits, permanent residence permits and work permits have been issued at the new Multifunctional Migration Center that is located approximately 80 km away from the center of Moscow and 500 meters from Sakharovo village (Voronovo rural settlement) in Moscow’s Troitsky administrative district. The change means that foreign applicants staying in Moscow must now travel the long distance to this migration center to obtain their residence and/or work permits.

- Federal Law No. 490-FZ on Amendments to the RF Code of Administrative Offenses was adopted on December 28, 2016, and entered into force on January 9, 2017. The amendments slightly softened the penalties for violating certain rules for entering and staying (residing) in the Russian Federation. Such violations as a breach of migration registration rules, failure to file an annual notice confirming residence in Russia (for foreigners with Russian temporary or permanent residence permits), mismatch between the purpose of visit stated in the visa and the real purpose of the stay, and some other violations committed in Moscow, St. Petersburg, Moscow Oblast and Leningrad Oblast no longer result in administrative expulsion from the Russian Federation and a ban on entering Russia as the only possible penalty for such violations. Courts are now allowed to fine foreigners (without ordering their administrative expulsion from the Russian Federation) for the first offense committed within a year.