

HR & Tax Alert



Quality In Everything We Do

Russia – New sanctions for immigration violations now in force

February 2007

Executive summary

Changes to the Administrative Violations Code, which deals with immigration compliance, announced in late 2006 came into force on 15 January 2007. This alert reports the extent of these changes and their impact on Russian companies, and foreign companies operating in Russia through representative offices and branches employing foreign nationals.

Background

The changes reflect the increased attention of the state authorities to immigration matters and processes in Russia, and bring the Administrative Code into balance with the new laws in this area.

As a result, the list of violations is substantially refined and has become much more detailed and focused. In addition the severity of sanctions is drastically increased.

Further, the Law has introduced sanctions and/or fines for various infractions including:

- the violation of restrictions on certain occupations for foreign nationals (in particular the retail business);
- failure to inform the state immigration, employment and tax authorities regarding the employment of foreign citizens; and,
- violations of the new rules on immigration related enrolment and registration

In particular, among other changes, the engagement of a foreign national without an individual work permit, and the engagement of foreign nationals by a company without a corporate permit to engage foreign labour are now viewed as separate violations. Each may lead to a fine of 2,500 to 8,000 Minimum Monthly Wages (MMW) per violation for a company, and up to a fine of 250 – 500 MMW for the executives of that company. One MMW is 100 rubles (US\$3.77) for the purposes of calculation of fines. The activities of the company may also be suspended for up to 90 days. These sanctions will be imposed separately in respect of each expatriate engaged unlawfully.

The Code now specifies the definition of “engagement of foreign nationals”. It is not necessarily limited to the conclusion of employment contracts with them, but rather the use of the labour of a foreign national, irrespective of what form this takes.

In addition to the above, a foreign national working in Russia without a work permit may be charged with a fine of 20 – 50 MMW as well as facing deportation from Russia.

Certain fines are also introduced for individuals, the companies with which they are connected, and the officers of those companies where an individual enters Russia under a visa which does not support the

actual purpose of their visit. Fines are per expatriate and are as follows:

- Individuals – 20-50 MMW,
- Company executives – 400-500 MMW,
- Companies – 4000-5000 MMW.

Associated risks

These new sanctions, in combination with equally severe sanctions for failure to observe immigration

related registration rules, dramatically increase exposure for all companies employing foreign labour. Even the most compliant employers sometimes have expatriates operating in Russia without a work permit, on the basis of a business visa. The potential cost of failing to accurately gauge the point at which a business trip becomes work has increased exponentially.

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