



Immigration

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Introduction

This practical guide has been compiled by the Ius Laboris Global Mobility Practice Group and covers the business immigration requirements of 42 jurisdictions within Europe, the Americas and the Asia-Pacific region.

Increasing numbers of businesses have global operations, resulting in a growing need for staff to travel for business meetings and take on longer term work assignments abroad. Businesses routinely second staff into foreign jurisdictions.

Many organisations, from multinationals to SMEs rely on foreign workers, who bring in skills and knowledge from outside and span a wide a range of industries. From high-tech and biotech, to retail and hospitality, the demand for skilled and professional workers from foreign countries is ever-increasing across the world. In some developing countries foreign investment has led to a need for foreign labour, causing businesses to look beyond their borders to source the necessary skills and knowledge. And there are signs that governments are adapting immigration law and policy to meet the socio-economic need for foreign labour.

But despite this, the focus on border control remains high on the agenda of many governments and the consequences of non-compliance with immigration control are becoming more severe in those countries. This impacts on many industries and means it is essential for organisations to have sound immigration strategies and good forward planning to enable them to operate efficiently and avoid non-compliance sanctions.

The aim of this publication is to assist professionals in managing their global workforces, no matter where they are located and to provide them with an accessible guide to assist in planning their international assignments and transfers.

For further information on the law in any given country, please contact the relevant Ius Laboris member firm listed above or:

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Russia 

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1. INTRODUCTION

While establishing equal rights for Russian and foreign employees, Russian law sets certain restrictions concerning the work of foreign nationals in Russia. The immigration procedures in Russia are quite complex and consist of various stages.

The general rule is that a foreign national must obtain a personal work permit to conduct any work activity in Russia (with some exemptions for categories of employees or nationals of countries with relevant international agreements with Russia).

Additionally, employers are required to obtain permission to engage foreign nationals (except for foreign nationals coming from visa exempt countries).

Immigration procedures include not only obtaining the necessary documents to permit a foreign national to enter and work in Russia, but also notifying the Russian authorities when a foreign national is hired and of his or her arrival or departure.

2. SOURCES OF LAW

The employment of foreign nationals is regulated by Russian labour law, including:

- the Labour Code of Russia
- the Federal Law of the Russian Federation 'On the legal status of foreign citizens in the Russian Federation' of 25 July 2002
- the Federal Law of the Russian Federation 'On the migration record of foreign citizens and stateless persons in the Russian Federation' of 18 July 2006
- the Federal Law 'On the exit from and entry into the Russian Federation' of 15 August 1996
- certain Presidential decrees
- Government regulations on issues related to the employment of foreign nationals
- Regulations of the Ministry of Labour, the Foreign Ministry, the Ministry of Internal Affairs and other authorities.

3. VISITORS FOR BUSINESS PURPOSES

3.1 Visas

Russian legislation provides that every foreign national must have a visa to enter Russia, except for foreign nationals from certain countries (mostly CIS countries that formerly belonged to the USSR), who can enter Russia without a visa (in such cases, stay is generally permitted for 90 days).

Under Russian law, the purpose of stay declared when applying for a visa and the actual purpose of the stay should correspond.

3.2 Permitted Activities

A business visa may be issued to the following foreign nationals:

- those who come to Russia to visit commercial organisations and to participate in significant negotiations (e.g. councils, consultations, conferences, symposiums and congresses) in relation to economic issues. A business visa is also issued to foreign nationals who wish to

further their professional education in scientific organisations, Russian joint ventures and the representative offices of foreign commercial and other organisations accredited by ministries and departments of Russia

- those who visit commercial organisations to resolve particular commercial issues (e.g. to handle commercial negotiations and execute or extend terms of agreements); participate in auctions, exhibitions and other commercial events; and perform other activities defined by law.

If a foreign national stays in Russia under a business visa, but actually works there, he or she will be in breach of the declared purpose of entry into Russia. This may give rise to administrative liability either for violation of admission rules or the residence regime in Russia.

3.3 Procedures

A business visa is issued by the respective Russian Consulate outside Russia, based on invitations from Russian hosts.

The validity period of a single or double entry business visa is three months. Multiple entry business visas can be for a term of up to 12 months. However, a foreign national is allowed to stay in Russia under a multiple entry visa for no more than 90 days in any 180-day period. Once a business visa expires, a foreign national must leave Russia. However, note that Russia has concluded treaties with a number of countries under which business visas can be issued for up to five years.

3.4 Documents

Foreign nationals applying for any type of visa should provide:

- a valid passport (the term of validity should be not less than six months from the date of visa expiry and one and a half years from the visa commencement date)
- a completed visa questionnaire, along with a photo
- a medical insurance certificate valid for Russia
- a certificate confirming that the foreign national does not have HIV (in cases where the term of the visa is for more than three months). This provision does not extend to staff of diplomatic representations and consular offices of foreign governments or the staff of inter-governmental organisations and their families.
- an invitation letter registered with the Russian authorities (required for private visas, business visas and work visas).

4. WORKERS WHO MAY NOT NEED A WORK PERMIT

4.1 General

A foreign national does not need a work permit if he or she:

- permanently or temporarily resides in Russia
- is a participant in the State Programme for rendering assistance to the voluntary movement to Russia of 'compatriots residing abroad' and their families
- is an employee of a diplomatic mission, consulate or international organisation or a private domestic worker for those employees

- works for a foreign legal entity, performing installation, servicing and post-guarantee repairs of technical equipment supplied to Russia
- is a journalist accredited in Russia
- is studying in Russia in an educational establishment for his or her professional education and is carrying out work during his or her holidays
- is studying in Russia in an educational establishment for his or her professional education and also works during spare time as an auxiliary educational worker in the establishment where he or she is studying
- is invited to Russia as a lecturer to give talks in an educational establishment, with the exception of a foreign national arriving in Russia to perform an educational activity in an establishment for professional religious education
- is an employee of an accredited representative office of a foreign legal entity registered in Russia, as long as this is within the number agreed by the authority at the time of accreditation and permitted by the international treaty between the Russian Federation and the country of the employee's citizenship
- is a refugee or asylum seeker.

For circumstances other than those mentioned above, the Government adopts an annual employment quota limiting the number of foreign nationals who can come to Russia to work.

4.2 Procedures

No specific procedures are set, but a foreign national permanently residing in Russia must obtain the applicable permit.

4.3 Documents

No specific documents are required.

5. WORK PERMITS

5.1 General

A work permit is issued for the term of the employment contract or civil law contract (but for not more than one year, except for highly qualified specialists and foreign nationals obtaining work permits under the special procedure for members of the WTO).

The period that a foreign national may work in Russia is limited by the duration of his or her work permit. If a foreign national continues working after the work permit has expired, both the organisation he or she works for and the foreign national himself will be subject to administrative fines. These are quite considerable for the organisation.

A work permit is issued for the performance of work in only one region and only for working at the job indicated in the work permit. If a foreign national intends to work in various regions of Russia, he or she must obtain a work permit in each region. The organisation must also obtain permission to engage a foreign workforce in each such region.

Employers can employ foreign nationals without permission to engage and use a foreign workforce if the foreign nationals:

- came to Russia under a regime in which there was no requirement to obtain a visa
- are highly qualified specialists
- are obtaining work permits under the procedure for WTO members.

Unless otherwise stipulated by international treaties in which Russia participates, foreign nationals who have come to Russia under a regime which does not require them to obtain visas, will be subject to being photographed and having their fingerprints registered.

5.1.1 Procedures

In order to obtain a work permit, the following steps should be completed by an organisation that intends to employ a foreign national:

As a general rule, organisations wishing to use the services of foreign nationals in Russia must reserve a quota in the year preceding their prospective employment (before 1 May of the preceding year). The requirement to reserve a quota may be set by the constituent region of the Russian Federation. A quota reservation requires the organisation to fill in a special form indicating how many foreign nationals it may employ in the next year, their professions, job titles, countries of origin and certain other information.

Some jobs are given a quota exemption. In principle, each year the Ministry of Health and Social Development announces a list of professions, specialties and positions for foreign nationals to which no quota applies. The list varies from year to year and in some years it might not be enacted at all.

The organisation must obtain a decision from the State Employment Centre confirming the reasonableness of engaging a foreign national.

The organisation must obtain permission to engage a foreign national from the Federal Migration Service.

The organisation must obtain a work permit for a foreign national (filed with the Federal Migration Service).

If a foreign national comes from a visa-exempt country, then the above stages will not apply as the applicant will have to obtain a patent instead of a work permit. As regards the timeframes, completion of the stages described above takes not less than three months from the date of submission of the documents to the authorities.

Foreign nationals intending to stay in Russia for up to three years may apply for a permit for temporary residence. Temporary residence permits are issued subject to an annual quota established by the Russian Government. Some categories of foreign nationals, most notably those married to Russian nationals, are exempt from this quota.

Temporary residents cannot change the place of their residence and work outside of the region of Russia for which the temporary residence permit is granted. Temporary residence permits are valid for up to three years.

A temporary resident can apply for a permanent residence permit, provided he or she has resided in Russia for at least one year, on a temporary residence permit. Permanent residents are allowed to travel in and out of Russia without any restrictions, as no visa is required for them. No work permits are needed for permanent residents, and they may therefore be employed by any employer within the relevant region without restriction. Permanent residence permits are issued for five years and may be renewed for a similar period an unlimited number of times.

5.1.2 Documents

An application for a work permit requires submission of the following documents:

- a set of documents relating to the organisation concerned: its articles of association, its certificate of registration, its licence, a document certifying the authority of the CEO and certain additional documents
- a draft employment agreement with the prospective foreign national
- a medical certificate for the foreign national, confirming the absence of such diseases as HIV, syphilis, leprosy, tuberculosis, chlamydial lymphogranuloma, cancrroid and drug addiction
- a copy of the voluntary medical insurance policy
- a certificate confirming knowledge of the Russian language, history and law
- a certificate of higher education, apostilled in the home country and submitted with a notarised Russian translation.

5.2 Special preference categories

Highly qualified specialists

It is possible to engage and use the services of highly qualified specialists and obtain work permits for them in accordance with a simplified procedure. Highly qualified specialists are those foreign nationals who have experience and skills in a certain field, provided that the monthly salary paid to them by the Russian employer will be not less than RUB 167,000 (approximately EUR 2,290).

A work permit for highly qualified specialists can be issued for the term of their employment contracts, but for not more than three years. The term of the work permit can be extended an unlimited number of times (each time for a period of not more than three years).

Procedure for WTO members

Foreign nationals assigned by foreign commercial organisations registered in WTO member states to subsidiaries, branches or representative offices in Russia may obtain work permits under this simplified procedure.

Invitations and work permits for this category of foreign nationals are issued irrespective of Government quotas. However, the Government is entitled to establish certain restrictions on

the employment of highly qualified staff. There are several requirements for this regime. First, the foreign commercial organisation should be incorporated within a WTO member state. Second, the employment should be for at least one year. Third, there are requirements regarding the types of jobs foreign nationals may hold in a Russian entity. A foreign national assigned to a representative office of a foreign commercial organisation must hold a managerial position and constitute 'key personnel', meaning the head of a subsidiary or branch or any role paid at a rate of not less than RUB 2 million per annum where the employee provides services, is highly qualified and/or has particular knowledge. Fourth, the total number of employees to undergo this procedure may be five for representative offices, or two for banks. These employees may also work in the territory of two or more constituent regions of the Russian Federation.

Work permits for these employees are issued for the term indicated in the decision, but this will not exceed three years. There is a right to multiple extensions.

5.2.1 Procedures

The Russian state authorities will consider applications to engage highly qualified specialists within 14 business days of the application. Highly qualified specialists are able to obtain one work permit that is valid in several regions of Russia if the employment agreement stipulates work in those regions.

The procedure for engaging highly qualified specialists applies to foreign nationals entering Russia for the purpose of working in Russian commercial organisations, representative offices of foreign legal entities accredited in Russia, accredited branches of foreign organisations, Russian scientific organisations, educational institutions, health care facilities, and in other organisations that perform scientific, technological and innovative activities and experimental developments.

Highly qualified specialists and their families may also obtain residence permits in Russia via the simplified procedure for the duration of the work permit of the highly qualified specialist.

5.2.2 Documents

Fewer documents are required for highly qualified specialists than for those applying for a work permit under the standard procedure for hiring foreign nationals. In general, the procedure is simpler for highly qualified specialists under Russian law.

However, additional obligations are imposed on employers. For example, organisations are obliged to inform the respective Russian state authorities quarterly of the amount paid to the highly qualified specialist. The organisation must also inform the state authorities if it terminates an employment agreement with a highly qualified specialist or provides him or her with holiday without paying salary for a period of more than one calendar month in a year. In addition, a highly qualified specialist and his or her family must be insured under a voluntary health insurance agreement from the day they enter Russia.

6. LAWFUL STAY FOR DEPENDANTS

6.1 General

Foreign nationals accompanying a foreign national with a single or multiple entry visa as his or her family members can enter Russia under the same type of visa. The visa for accompanying family members is issued for the same term as the principal visa holder.

6.2 Procedures

The procedures for obtaining a visa and a temporary or permanent residence permit for an accompanying foreign national are the same as for the principal foreign national.

6.3 Documents

An accompanying foreign national must present the same set of documents as the principal foreign national.

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