

Newsletter

New rules of regulation of agency work

November 13, 2019

Dear Ladies and Gentlemen,

The Ministry of Economic Development of Russia has published two Draft Laws regulating the agency work requirements:

- Draft of Federal Law "On Amendments to the Labour Code of the Russian Federation, with regard to the regulation of labor of employees temporarily assigned by an employer, who is not a private employment agency, to other legal entities, under an agreement on the provision of the labour of employees (personnel)"
- Draft of Federal Law "On amendments to Article 18.1 of the Law of the Russian Federation "On Employment in the Russian Federation".

The first Draft Law establishes the regulation of the relations, arising due to the conclusion of the agreement on the provision of the labour of employees, by the legal entities not being private employment agencies.

Legal entities, not being private employment agencies, which are allowed to perform the activities on provision of the labour of employees, in accordance with the Employment Law of Russian Federation, will be able to send their employees to other legal entities. The Draft Law requires that the sending party and the host party should enter into the agreement covering the provision of the employees.

Further, the employer (the sending party) must enter into an additional agreement to the employment contract with the respective employee, which shall include the following mandatory provisions:

- 1 Information about the host party, including the name of the legal entity;

- 2 Place and date of conclusion of the agreement on provision of employees, its number and validity term;
- 3 Terms and conditions of the employee's performance of labour function;
- 4 Term of the provision;
- 5 Place of work;
- 6 Details of the work and rest time;
- 7 Remuneration conditions for the term of work, at the host party's entity.

The Draft Law requires obtaining the consent of the directed employee and prohibits including, in the additional agreement to the employment, contract terms that may worsen the employee's position, as compared to that required by the labour legislation.

The Draft Law also sets out that the sending party shall check whether the employees perform their labour function, indicated in the employment contracts, with them and verify the compliance with the Russian labour legislation.

The Draft Law was posted on the Federal Portal of the draft regulatory legal acts on May 24, 2019 and is currently at the stage of public discussion and anti-corruption review.

Amendments proposed by the second Draft Law to the Employment law, posted on the Federal Portal of the draft regulatory legal acts on August 26, 2019, allows to provide the personnel to the companies - parties to the shareholders' agreement concluded with the sending party, or its affiliate, as well as the legal entity in respect of which the sending party, or its affiliate, has concluded the shareholders agreement.

In addition, companies (or their affiliates) who entered into a joint operation agreement and on

its ground created an association (which is not a legal entity), which is a party to the production sharing agreement, may send personnel to other participants of such association (or affiliates thereof).

Besides, there are some restrictions, which will be applied to the parties not being private employment agencies:

- 1 such companies shall not have any salary arrears;
- 2 they shall not be subject to the simplified taxation system.

Source: <https://regulation.gov.ru/p/91596>; <https://regulation.gov.ru/p/94277>

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please, do not hesitate
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