

# Newsletter

## *Principal questions of new Russian regulations on HR digitalization*

December 7<sup>th</sup>, 2021

### Dear Ladies and Gentlemen,

As you know, on November 22nd, 2021, amendments, which allow implementing electronic document workflow in the HR sphere, have been introduced in the Russian Labour Code.

Below, we provide our insights, answering the most important questions of the new Russian regulations.

#### When did amendments to the Russian Labour Code come into force and for which companies?

For most companies, amendments to the Russian Labour Code came into force on November 22nd, 2021.

For companies, which participated in the experiment on the usage of the e-document workflow, new rules shall apply to the relations that have arisen since November 16th, 2021. If such a company decides to fully implement the e-document workflow, then it is required to finalize the transformation to e-document workflow by July 1st, 2022.

On March 1st, 2023, the unified requirements, on the format and content of e-documents, will come into force. Until March 1st, 2023, companies are free to use their own format and content of e-documents.

#### Does e-document workflow apply to all HR documents?

Companies may transfer almost all HR documents in electronic format, except for:

- labour books;
- information on labour activity;
- statement on any accident at the workplace;
- HR dismissal order; and documents confirming that employees have passed health and safety training.

#### Does e-document workflow apply to remote employees?

New rules on the e-document workflow apply to employees conducting their job duties at workplace.

E-document exchange with remote employees is regulated by the specific provisions of Russian Labour Code for remote employees.

At the same time, if a company implements e-document workflow, then such a company may expand the new rules to remote employees. In such a case, the new provisions of the Russian Labour Code will apply to remote employees.

#### How to introduce e-document workflow?

- 1) Adopt the local policy, which governs e-document workflow issues;
- 2) Notify employees of the implementation of the e-document workflow;
- 3) Obtain, from employees, written consents to use the e-document workflow.

#### Which IT systems may companies use?

- 1) Employer's IT system;
- 2) IT system "Work in Russia" (which is the State unified system).

#### Which e-signatures companies may use and for which documents?

The particular type of e-signature depends on the IT system, which an employer uses.

#### I. Employer's IT system

##### **Employers shall use:**

- 1) Enhanced qualified electronic signatures;
- 2) Enhanced non-qualified electronic signatures, which may be checked in accordance with the provisions of the employment contract;

- 3) Enhanced non-qualified electronic signatures, issued with the use of e-government infrastructure.

**Employers shall use enhanced qualified electronic signatures in the following cases:**

- 1) Conclusion and amending of:
  - employment contracts;
  - agreements on full material liability;
  - apprenticeship agreements;
  - agreements on employees' education.
- 2) Execution of orders on imposition of disciplinary sanctions;
- 3) Notification on amendments of employment contracts' conditions.

In case of execution of all other documents, employers may use enhanced qualified, or non-qualified, e-signature.

**Employees shall use:**

- 1) Enhanced qualified electronic signatures;
- 2) Enhanced non-qualified electronic signatures, which may be checked in accordance with the provisions of the employment contract;
- 3) Enhanced non-qualified electronic signatures, issued with the use of e-government infrastructure;
- 4) Simple e-signatures, in accordance with the procedure of the employment contract.

Employees shall use enhanced qualified, or non-qualified, e-signatures in the following cases:

- 1) Conclusion and amending of:
  - employment contracts;
  - agreements on full material liability;
  - apprenticeship agreements;
  - agreements on employees' education.
- 2) Execution of the resignation letters.
- 3) Withdraw of the resignation letters.
- 4) Execution of the consents on transfer.
- 5) Familiarization with:
  - notification on amendment of employment contracts' conditions;
  - order on the imposition of disciplinary sanction.

In case of execution of all other documents, employees may use enhanced qualified, or non-qualified, e-signature, or simple e-signature.

## II. IT system "Work in Russia"

**Employers shall use:**

- 1) Enhanced qualified electronic signatures;
- 2) Enhanced non-qualified electronic signatures, issued with the use of e-government infrastructure;

**Employees or candidates shall use:**

- 1) Enhanced qualified electronic signatures;
- 2) Enhanced non-qualified electronic signatures, issued with the use of e-government infrastructure;
- 3) Simple e-signatures, issued in accordance with the procedure established by the Russian Government.

Regardless of the IT system, employers will bear costs for obtaining electronic signatures for employees, as well as costs due to their usage.

**Shall employees provide consent to e-document workflow? Can employees refuse such transformation?**

Companies shall obtain written consents from employees to transformation of documents in the electronic format.

An employee is entitled to refuse the e-document workflow. At the same time, the employee may agree to such transformation later.

The absence of an employee's consent to e-document workflow shall not be a ground for dismissal.

The Russian Labour Code provides for cases when companies may exchange, with employees, e-documents without their consent (e.g., accidents, catastrophes, etc.).

**What actions shall the company take with respect to the candidates?**

Companies shall inform a candidate about e-document workflow in the company.

Companies shall request from a candidate, with an employment history before December 31st, 2021, a consent to the e-document workflow.

Companies are not obliged to obtain consent to the e-document workflow from candidates hired after December 31st, 2021 without employment history.

The absence of a candidate's consent to the e-document workflow shall not be a ground for refusal in hiring.

### How to archive the documents in digital format?

As for now, the current archive legislation shall apply to electronic documents:

- Order of the Russian Ministry of Culture, dated 31.03.2015 No. 526 "On approval of the rules for the organization of storage, acquisition, accounting and use of documents of the Russian Archival Fund and other archival documents in state authorities, local government and organizations".
- Methodological recommendations on the application of the Rules for the organization of storage, acquisition, accounting and use of documents of the Russian Archival Fund and other archival documents in state authorities, local government and organizations.

### What shall companies do if they had implemented e-document workflow before the introduction of amendments to the Russian Labour Code?

The answer depends on whether the company implemented the e-document workflow in

relation to remote employees, or non-remote employees.

### Implementation of the e-document workflow only in relation to remote employees

The company is not required to introduce any amendments in HR processes, if such implementation was carried out in accordance with provisions of Chapter 49.1 of the Russian Labour Code, in respect of remote employees.

### Implementation of the e-document workflow, in relation to the employees conducting their job duties at workplace

The company shall reconsider its HR processes in order to make them comply with the new requirements.

ALRUD Labour and Employment team will be glad to provide necessary legal assistance due to the implementation of e-document workflow in the HR sphere, as well as on other matters related to HR digitalization.

We hope that the information provided herein will be useful for you. If any of your colleagues would also like to receive our newsletters, please send them the link to complete a [Subscription Form](#). If you would like to learn more about our [Labour and Employment practice](#), please let us know in reply to this email. We will be glad to provide you with our materials.

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If you have any questions, please, do not hesitate to contact ALRUD experts:



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