



JOINING THE FEDERAL INDUSTRY AGREEMENT FOR COMPANIES IN THE CHEMICAL, PETROCHEMICAL, BIOTECHNOLOGICAL AND CHEMICAL AND PHARMACEUTICAL INDUSTRIES IN RUSSIA FOR 2016-2018

FAO: CEOs of companies, employees in legal departments, and HR departments of companies in the chemical, petrochemical, biotechnological and chemical and pharmaceutical industries.

At federal level, the industry tariff agreement has been adopted which sets additional obligations and automatically extends to companies in Russia's chemical industry. To refuse to join the agreement, a well-grounded refusal should be submitted to the Russian Ministry of Labour by 20 November 2015.

On 22 October 2015, Rossiyskaya Gazeta¹ published a Letter of the Russian Ministry of Labour and Social Protection (the "**Ministry**") about joining the Federal Industry Agreement for Companies in the Chemical, Petrochemical, Biotechnological and Chemical and Pharmaceutical Industries for 2016-2018 (the "**Agreement**").

The Agreement has effect in relation to:

- companies which are members of the All-Russian Industrial Association of Employers "The Union of Enterprises and Organisations in the Chemical Industry of Russia" (the "**Union**");
- companies which are not members of the Association of Employers but have authorised the Association to enter into the Agreement on their behalf, and;
- other Russian chemical companies, unless such companies submit to the Ministry of Labour a well-grounded refusal to join the Agreement by 20 November 2015.

Below we set out some of the provisions of the Agreement which lay down additional requirements for employers:

- Extra payments for night and evening shifts must amount to at least 40 and 20 percent of the base rate (salary) respectively (clause 5.15).
- When developing remuneration forms and systems, an employer must ensure that the fixed part of an employee's remuneration (base rate (salary) including extra payments for working conditions and for working multiple shifts, regional coefficients and percentage supplement for working in severe climatic conditions and other permanent extra payments and allowances) accounts for at least 65 per cent (clause 5.5).
- The minimum base rates (salaries) of staff must be indexed at least once a year. This should be done in proportion to the actual change of the minimum subsistence level of the working population in the relevant constituent entity of the Russian Federation based on the information from the Federal State Statistics Service (Rosstat) in a cumulative total from the time of the previous indexation (clause 5.7).

¹ <http://www.rg.ru/2015/10/22/obrachenie-dok.html>

- The employers must provide the employees with borrowed funds for the purchase and construction of residential premises, expensive property from the accumulated funds of the company, or implement joint programmes with credit institutions to provide mortgages to employees on beneficial conditions (clause 6.14).
- The employers must hire foreign employees in accordance with the applicable legislation and collective bargaining agreement after consulting elected bodies of regional offices of Roskhimprofsoyuz (the Russian Chemical Workers' Union) (clause 7.1.7).

If a company joins the Agreement, it will have the right to increase the reporting period for employees working in harmful and/or dangerous working conditions up to 1 year as provided for by article 104(2) of the Russian Labour Code (if this is also provided for by the bargaining agreement (clause 4.1.4 of the Agreement)).

Implications for companies

For companies which did not play a part in the Agreement being concluded (i.e. those which are not members of the Association of Employers and did not authorise it to enter into the Agreement), the only option for refusing to join is to file a well-grounded refusal with the Ministry of Labour, accompanied by the minutes of the discussions with the elected body of the primary trade union organisation which represents the company's employees (article 48(8) of the Russian Labour Code).

We recommend considering whether it is prudent to join the Agreements, and, if the decision is taken to refuse to join, filing a well-grounded refusal with the Ministry of Labour. It is also necessary for the Ministry to **receive** a well-grounded refusal within 30 calendar days of the publication date, in other words **on or before 20 November 2015**.

If such well-grounded refusal is not filed with the Ministry of Labour or is filed after the specified date, the employees of the relevant company will have the right to claim (including by going to court) that guarantees, compensations and benefits be granted to them in accordance with the Agreement. State Labour Inspectorate bodies will have grounds to hold the company administratively liable for not complying with the Agreement.

Help from your adviser

Pepeliaev Group's lawyers will readily provide the necessary legal support when the documents are prepared which are required to refuse to join the Agreement, and on any other issues which relate to the above Agreements being in effect.

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