



JOINING THE FEDERAL INDUSTRIAL AGREEMENTS REGARDING RUSSIAN TIMBER COMPANIES FOR 2015-2017

FAO: CEOs of companies, employees in legal departments, and HR departments of timber companies

At the federal level, industrial agreements have been adopted setting additional obligations and automatically extending to companies engaged in the timber industry in Russia. To refuse to join the agreements, companies should submit well-grounded refusals to the Russian Ministry of Labour and Social Protection (the "**Ministry of Labour**") by 8 October 2015.

On 9 September, the Rossiyskaya Gazeta published letters of the Ministry of Labour about signing up to the Federal Industrial Agreement for Russian timber companies for 2015-2017 (the "**Company Agreement**")¹ and the Federal Industrial Agreement for the Russian timber industry for 2015-2017 (the "**Industrial Agreement**")².

The Company Agreement has effect in relation to:

- companies which are members of the All-Russian Industrial Association of Employers in Paper-and-Pulp Industry or of the All-Russian Industrial Association of Employers in Furniture and Wood-Processing Industry (the "**Associations of Employers**");
- companies which are not members of the Associations of Employers but have authorised the Associations to enter into the Agreement on their behalf, and
- other Russian timber companies, unless such companies submit to the Ministry of Labour a well-grounded refusal to join the Agreement by 8 October 2015.

The Industrial Agreement has effect in relation to:

- companies which are members of the All-Russian Industrial Association of Employers "The Union of Timber Industrialists and Exporters of Russia" (the "**Union**");
- companies which are not members of the Union but have authorised the Union to enter into the Agreement on their behalf;
- other Russian timber companies, unless such companies submit to the Ministry of Labour a well-grounded refusal to join the Agreement by 8 October 2015.

¹ <http://www.rg.ru/2015/09/09/rabotodatelyam-dok.html>.

² <http://www.rg.ru/2015/09/09/les-dok.html>.

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

The Company Agreement:

1. An employer must pay its employees extra of at least 30 % of the hourly tariff rate (salary per hour) for each hour of work during the night shift (clause 1.3.2).
2. Employers must set a lump sum remuneration, whether in cash or another form, to its employees who were awarded with honorary titles of the Russian Federation and who are working within their speciality (clause 1.2.4)
3. Employers must set an extra payment of at least 40% of the hourly tariff rate (salary per hour) for each hour to their employees engaged in the logging, timber and chemical industries and construction of timber facilities for their time in travelling to work and back if such time exceeds 2 hours one way (clause 1.3.5).

The Industrial Agreement:

1. An employer must pay its employees extra of at least 40 % of the hourly tariff rate (salary per hour) for each hour of work during the night shift (clause 1.3.2).
2. Employees must grant a pre-emptive right to be hired to citizens who were discharged from compulsory military service or alternative civilian service and who, before being called for such service, worked for the company. Such persons should be hired within three months after they are dismissed from the military service or alternative civilian service (clause 6.3.2).

If a company joins either of the Agreements, it will be able to take advantage of the opportunity provided for by article 92 of the Russian Labour Code. Under this provision it will be able to increase to 40 hours the reduced 36-hour work week established for employees working in a harmful environment (if the collective bargaining agreement makes provision for this and the written consent of the employees is obtained) (clause 2.1). The company will also be able, based on the collective bargaining agreement and the written consent of an employee, and by virtue of clause 117(4) of the Labour Code, to substitute monetary compensation for the part of an annual additional vacation exceeding 7 calendar days to the employees working in a harmful environment (clause 2.3.1).

After a company joins the Company Agreement, the employer will be able to increase daily working hours (shift) for employees engaged in a harmful environment (article 94(3) of the Labour Code). To exercise the right, a corresponding provision must be included in the collective bargaining agreement and the written consent of the employee should be obtained (clause 2.1 of the Company Agreement).

Implications for companies

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

We recommend considering whether it is prudent to join the Agreements, and, if the decision is taken to refuse to join, filing well-grounded refusals with the Ministry of Labour. It is also necessary for the Ministry to **receive** well-grounded refusals within 30 calendar days from the publication date, in other words **on or before 8 October 2015**.

If such well-grounded refusals are not filed with the Ministry of Labour or are 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 Agreements. State Labour Inspectorate bodies will have grounds to hold the company administratively liable for not complying with the Agreements.

Help from your adviser

Pepeliaev Group's experts 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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