



## JOINING THE FEDERAL AGRICULTURAL INDUSTRY AGREEMENT FOR 2015 -2017

*FAO company CEOs, in-house lawyers and HR specialists of agricultural industry companies in Russia*

At federal level, the industry agreement has been adopted which sets additional obligations and automatically extends to companies in Russia's agricultural industry. To refuse to join the agreement, a well-grounded refusal should be submitted to the Russian Ministry of Labour and Social Protection by **15 May 2015**.

On 16 April 2015, Rossiyskaya Gazeta<sup>1</sup> published a Letter of the Russian Ministry of Labour and Social Protection (the "**Ministry**") about joining the Federal Russian Agricultural Industry Agreement for 2015-2017 (the "**Agreement**").

The Agreement has effect in relation to:

- companies that are subordinate to the Russian Ministry of Agriculture and Russian Federal Service for Veterinary and Phytosanitary Surveillance ("Rosselkhoznadzor"),
- members of All-Russian Agricultural Industry Association of Employers and Association of Peasant Farm Enterprises and Agricultural Co-operatives of Russia (the "**Association of Employers**"),
- other companies in the agricultural industry, unless such companies submit to the Ministry of Labour and Social Protection a well-grounded refusal to join the Agreement by 15 May 2015. This Agreement covers, in particular, companies producing food, beer and other beverages, tobacco products, and engaged in activities in the spheres of agriculture, forestry, and fishing among others.

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

1. The remuneration schemes, including tariff rates and salaries, supplemental payments and allowances that are compensatory in nature, are established as agreed with the elected bodies of the primary trade union organisations (clause 5.2).
2. Extra payments for night shifts must be at least 40% of the hourly tariff rate (salary per hour) for each hour of work (clause 5.5).
3. Performance standards must be introduced, changed or revised taking account of the opinion of elected bodies of primary union organisations, with employees notified at least two months beforehand (clause 5.8).
4. Additional vacation paid at an increased rate must be set for employees who work in harmful and/or hazardous working conditions: at least 8 calendar days for employees in condition class 3.3, at least 9 calendar days for employees in condition class 3.4, and at least 10 calendar days for employees whose working conditions are classified as hazardous (clause 7.3(a)).

<sup>1</sup> <http://www.rg.ru/2015/04/16/agro-dok.html>

5. An increased rate of payment shall be set for employees who work in harmful and/or hazardous working conditions: at least 5% of the hourly tariff rate (salary) for employees in condition class 3.3, at least 6% of the hourly tariff rate (salary) for employees in condition class 3.4, and at least 8% of the hourly tariff rate (salary) for employees whose working conditions are classified as hazardous (clause 7.3(b)).
6. Payments should be made to elected union bodies in the amount of at least 0.5% of the payroll fund for holding professional skill competitions, cultural activities and so on (clause 9.2);
7. No disciplinary sanctions, transfers and dismissals without prior agreement with a higher trade union body shall be applied to employees not excused from their primary employment and appointed to elected union bodies (9.2).

If a company joins the Agreement, it is entitled to use the possibility provided for by article 92 of the Russian Labour Code to increase up to 40 hours the reduced 36-hour work week established for employees in harmful working conditions (provided that the collective bargaining agreement makes provision for this and the written consent of the employee is obtained). In such case, for first two hours of increased working time employees are paid 1.5 times the amount of tariff rate and for subsequent hours at least double the amount of tariff rate (clause 7.3(c) of the Agreement).

### Implications for companies

For companies which were not involved in the Agreement being concluded (i.e. are not members of the Association of Employers and did not authorise them to enter into the Agreement), the only option for refusing to join is to file a well-grounded refusal with the Ministry, 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. It is also necessary for the Ministry to **receive** a well-grounded refusal within 30 calendar days from the publication date, that is, by **15 May 2015 inclusive**.

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

### 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 Agreement being in effect.

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