



STAFF LEASING: ROSTRUD IS ALREADY ACCEPTING APPLICATIONS FOR ACCREDITING PEAs

FAO company CEOs, in-house lawyers and HR specialists

Further to our alerts¹ regarding the ban on "zayomniy trud" in Russia, please be informed that the applications for accrediting private employment agencies to have the right to provide employees' (personnel's) labour² are already being accepted by Rostrud. The new requirements of the legislation³ are to come into effect from 1 January 2016. No extension of the date is expected.

Procedure of accrediting private employment agencies (PEAs)

On 18 November 2015, the Federal Service for Labour and Employment (known by the Russian abbreviation "Rostrud") started accepting application documents for accrediting PEAs. However, the accreditation will come into effect in January 2016 at the earliest.

PEAs should file applications for the accreditation, accompanied by the relevant documents, with Rostrud at the following address: 1, Birzhevaya Square, Moscow.

Agencies wishing to obtain accreditation in 2016 should start filing applications with Rostrud in the beginning of December this year. Agencies which need to become accredited from 1 January 2016 should specify this in their applications.

We remind you that, according to the new regulation, PEAs will be allowed to provide employees' (personnel's) labour subject to the following conditions:

- PEAs should be duly accredited, and
- there should be statutory grounds for the use of PEA's personnel



Thus, the regulatory framework to meet the first of the above requirements has been created. The rules for accrediting PEAs provide among other issues for the procedure for obtaining accreditation, its extending, suspending, renewing, and withdrawing. As for the list of the grounds for the use of PEA's personnel, it is very limited and does not meet all business needs.

In the near future, Rostrud may issue explanations regarding specific aspects of applying the new legislation.

Provision of personnel through affiliated companies

The draft federal law to regulate the labour of employees whom the employer (not being PEA) seconds to other legal entities on a temporary basis under a contract for providing the employees' (personnel's) labour has been developed, but has not yet been submitted to the Russian State Duma. It remains unclear whether it will be adopted by 1 January 2016.

¹ <http://www.pgplaw.ru/practice-and-industry/practice/practice-employment-and-immigration-law/materials>

² Resolution of the Russian Government No. 1165 dated 29 October 2015 'On adopting the Rules for accrediting private employment agencies to have the right to second employees (personnel)'.

³ Federal Law No. 116-FZ dated 5 May 2014 'On amending specified items of the legislation of the Russian Federation'.

What to think about and what to do

Employment agencies should already start preparing for obtaining the accreditation and file the documents with Rostrud as soon as possible (before mid-December).

Companies planning to use third parties' personnel should prepare in advance to meet the new requirements of the legislation. We recommend paying special attention to selecting an appropriate agency and checking whether it complies with the law, including the rules for accreditation. This aspect is of particular importance owing to the fact that the company-accepting party is subject to secondary liability for the obligations to the provided employees.

Moreover, companies should take account of the fact that, if the new requirements of the legislation are violated, both the accepting party and the seconding party may be held administratively liable.

Help from your adviser

Pepeliaev Group's lawyers have experience in advising across the board on how to construct non-traditional labour relationships. We have advised many leading Russian and international companies on how to prepare for the entry into force of the new requirements of the law, and we are ready to take account of the best practices in this field and the client's individual needs.

Moreover, we are ready to provide detailed advice regarding the cooperation between companies and PEAs, including the requirements to be met by PEAs and any other issues. We can also provide assistance with respect to filing the documents for PEAs' accreditation.

In addition, should any practical difficulties or questions with respect to obtaining accreditation and applying the new legislation arise, please do not hesitate to contact us. We may also address such information directly to Rostrud.

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