



EXTENDING THE TERM OF THE FEDERAL INDUSTRIAL AGREEMENT FOR THE COAL SECTOR TO 31 DECEMBER 2018

For the attention of CEOs, in-house lawyers and HR departments of companies in the Russian coal industry

The industry agreement was adopted at federal level for Russia's coal industry for 2013 to 2016 (the "Agreement"). The Agreement sets additional obligations and automatically extends to companies in Russia's coal industry. On 26 October 2015, an agreement was concluded to extend the term of the Agreement so that it will remain in force until 31 December 2018 (the "Extension Agreement").

On 10 February 2016, official newspaper Rossiyskaya Gazeta¹ published a Letter of the Russian Ministry of Labour and Social Protection (the "**Ministry**") about joining the Extension Agreement. Any entity wishing to refuse to join the Extension Agreement must, before **10 March 2016**, send to the Ministry a well-grounded refusal to join.

The Extension Agreement has effect in relation to:

- companies that are members of the All-Russian Sectoral Association of Employers in the Coal Industry (the "**Association**");
- other companies in Russia's coal industry if they have not, before 10 March 2016, submitted to the Ministry a well-grounded written refusal to join the Extension Agreement.

Below, we set out certain provisions of the Agreement that establish additional obligations for employers:

- The parties arrived at an agreement to preserve the previously established duration of the working day for employees engaged in underground work in coal mines that are operating or are under construction and which have harmful and/or hazardous labour conditions. This duration is set at 30 hours per week, and for mine overseers engaged in underground work in such mines, 35 hours per week, disregarding the time such workers spend being transported within the mine to their workplace and back, unless current Russian legislation establishes a different duration of the working week for such employees (clause 3.1.2);
- Cumulative records of work time may be introduced with the agreement of the trade union body (clause 3.1.11);
- With a view to increasing the salary of employees, regular quarterly indexation will be carried out within companies, based on the consumer prices index compiled using data from state statistics body Rosstat (clause 3.2.3);
- It will be compulsory for a commission for the investigation of accidents and industrial or occupational diseases as well as accidents and incidents at companies' hazardous production facilities to include a trade union's technical inspectors of labour, as well as chairmen and commissioners for security and the environment of the relevant trade union bodies (clause 4.16).

If a company joins the Agreement, it will be entitled, based on article 94(2) of the Russian Labour Code, to increase to 8 hours the duration of the daily work (shift) for workers employed in harmful working conditions, subject to the established weekly duration of working time for workers of 30 hours per week, and 35 hours per week for mine overseers (if a collective agreement provides for this, and further if the employee has consented in writing) (clause 3.1.2.1).

¹ <http://www.rg.ru/2016/02/10/mintrud-dok.html>

Implications for companies

For companies which did not play a part in the Extension Agreement being concluded (i.e. those which are not members of the Association), the only way to refuse to join is to file a well-grounded refusal with the Ministry. Attached to this refusal should be 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).

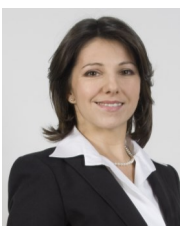
We recommend considering whether it is prudent to join the Agreement, and, if the decision is taken to refuse to join, filing a well-grounded refusal with the Ministry. It is also necessary for the Ministry to receive a well-grounded refusal within 30 calendar days from the publication date of the Ministry's Letter, in other words, **up to 10 March 2016 inclusive**.

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

Help from your advisers

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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