



LIABILITY MADE HARSHER FOR OVERDUE SALARIES, THE LIMITATION PERIOD FOR RECOVERING SALARY PAYMENTS EXTENDED AND OTHER CHANGES TO THE RUSSIAN LABOUR CODE

For the attention of companies' CEOs, in-house lawyers and HR specialists

Pepeliaev Group advises that, at the start of July, the Russian President signed a series of Federal Laws in the area of employment relationships.

In particular: the deadline has been extended for employees to apply to court with claims in relation to their salary; the fines for delaying payment of salary have been increased; the institution of an independent assessment of employees' qualifications has been introduced; an obligation is established to set a maximum level for the ratio between the average monthly salary for executives, their deputies, and chief accountants working in state authorities and publicly owned enterprises, and the average monthly salary of employees in such organisations; and specific features have been established for the regulation of the labour of employees of micro-businesses.

We highlight below the most substantial changes.

1. For employees, the 1-year limitation period has been extended for applying to court with claims relating to the non-payment or partial payment of their salary.



As practice has shown, the courts have fairly often dismissed employees' claims specifically because they have missed the three-month deadline for applying to court, while employers have often managed to have an order from a labour inspectorate quashed on this ground. With the timeframe for applying to court being extended, the risks of individual employment dispute arising has significantly increased.

The fine for a delay in making salary payments or in paying other amounts due to an employee has been raised to RUB 50,000 for legal entities and up to RUB 35,000 for their officers. In the event of a repeat infringement, an officer may be disqualified for a period of between one and three years.

The amount of an employer's financial liability for violating the payment deadline has been doubled and is not lower than 1/150 of the then-current key rate of the Russian Central Bank applied to the overdue amounts for each day of the delay.

A rule has been introduced into the Labour Code under which an employer is obliged to pay salary to employees no later than 15 days after the end of the period in which such salary was accrued¹.

2. For the first administrative offence an employer commits, a warning will be applied if the relevant rule of the Russian Code of Administrative Offences provides for such a sanction and provided that there is no harm caused and no threat of harm being caused to: the life or health of persons; plants or animals; the environment; cultural heritage sites (historical and cultural monuments) of peoples of the Russian Federation; and state security; as well as there being no threat of natural or man-made disasters and no damage to property².
3. An institution has been introduced of an independent assessment of employees' qualifications with a view to determining whether they meet professional standards and other requirements. The employer

¹ Federal Law No. 272-FZ dated 3 July 2016 'On amending specific items of the legislation of the Russian Federation in relation to increasing the liability of employers for violations of legislation to the extent that they concern payment for labour'. This will come into force on 3 October 2016.

² Federal Law No. 316-FZ dated 3 July 2016 'On amendment of the Code of Administrative Offences of the Russian Federation', which came into force on 4 July 2016.

itself will be entitled to decide whether or not an employee should undergo an independent assessment of his/her qualifications. Only special centres will be able to undertake such assessments³.

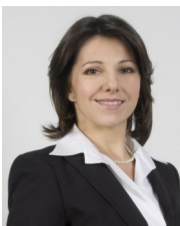
4. For state authorities and publicly owned enterprises, an obligation has been introduced to determine the maximum level for the ratio between the average monthly salary of executives, their deputies and the chief accountants, and the average monthly salary of their employees. Information about the average monthly salary of executives calculated for a calendar year must be placed on the websites of the relevant state bodies and publicly owned enterprises⁵.
5. A new chapter 48.1 has been included in the Labour Code. It establishes particular aspects regulating the labour of employees of micro-businesses (i.e. small businesses with a maximum average headcount that does not exceed 15 people). Employers that are micro-businesses are entitled not to adopt internal regulatory documents. In such a case, where the Labour Code provides that such documents will regulate particular conditions, these should be included in the employment agreements with employees⁵.

Help from your adviser

Pepeliaev Group's lawyers are ready to provide the legal support needed on all matters relating to the above new developments.

The firm's professionals also have extensive experience of advising on all issues of employment law and migration law.

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³ Federal Law No. 238-FZ dated 3 July 2016 'On independently assessing qualifications'; Federal Law No. 239-FZ dated 3 July 2016 'On amending the Labour Code of the Russian Federation further to the adoption of the Federal Law "On independently assessing qualifications"'. These will come into force on 1 January 2017.

⁴ Federal Law No. 347-FZ dated 3 July 2016 'On amending the Labour Code of the Russian Federation' which came into force on 4 July 2016.

⁵ Federal Law No. 348-FZ dated 3 July 2016 'On amending the Labour Code of the Russian Federation in terms of the specifics of regulating the labour of persons working for employers that are small businesses classed as micro-businesses'. This will come into force on 1 January 2017.