

WORK OF EXPATRIATES IN RUSSIAN FEDERATION

Principal normative legal act regulating rights and duties of foreign citizens in Russia, including the sphere of labor relations, is Federal law No 115-FZ of 25.07.2002 “Of legal status of foreign citizens in Russian Federation” (hereinafter - law No 115-FZ).

According to the Article 2 of the law No 115-FZ foreign citizen may stay in Russian Federation if he/she has one of the following documents:

- valid registration certificate
- temporary residence permit
- visa and (or) migration card.

Registration certificate is a document issued to a foreign citizen or to a stateless person to *confirm their rights for permanent residence in Russian Federation*, and also their rights for free exit from Russian Federation and entry to Russian Federation. Registration certificate issued to a stateless person is at the same time his/her identity paper.

Temporary residence permit is a confirmation of right of a foreign citizen or a stateless person to *sojourn in Russian Federation* until receiving of registration certificate, drawn as note in an identity paper, or as a standard document issued to a stateless person not having an identity paper.

A foreign person visiting Russian Federation is a person having arrived to Russian Federation on the basis of visa, or in order not requiring receipt of a visa and having received migration card, but not having registration certificate or temporary residence permit.

Expatriate employee is a foreign citizen temporarily staying in Russia and engaging in labor activities as applicable.

Labor activities of a foreign person is work of a foreign citizen in Russian Federation on the basis of labor contract or commercial work (service) contract.

So, expatriate employee, in respect of whom the described below special order of involvement to labor activities is applied to, is only a person temporarily staying on the territory of Russian Federation on the basis of visa (or in order not requiring receipt of a visa). A foreign citizen having temporary residence permit or registration certificate is not qualified as an expatriate employee and may work on the territory of Russian Federation without special permits.

But foreigners constantly residing in Russia (having registration certificate) may work without limitations in an organization (a representative office of a legal entity), situated anywhere in Russia, and

foreigners temporarily staying – only on the territory of that constituent territory where he/she is permitted to stay.

Employer and work (service) contractor has right to involve and employ expatriates arriving in Russian Federation on the basis of visa only if there is a presence of expatriates involvement and employment permit.

If employer/contractor gets involved in the work foreign citizens who entered Russia in an order not requiring receipt of a visa, then employer does not need a permit for involvement and employing of foreign working power (but employee must have personal labour permit (see below). But in this case an employer must inform territorial migration authority and executive authority on employment of population in correspondent constituent territory of Russian Federation of such involvement.

In turn, a foreigner has right to carry out labor activity only upon availability of labor permit issued to him/her.

There are some exceptions to this rule. In particular permit is not required for foreign citizens:

- employees of foreign legal entities (manufacturers or suppliers), carrying out installation (installation supervision) work, service and guarantee maintenance, and also post-warranty repair of technical equipment delivered to Russian Federation
- journalists accredited in Russian Federation
- studying in Russian Federation in educational institutions of professional education and performing work (rendering services) during their vacations
- studying in Russian Federation in educational institutions of professional education and by-working as auxiliary educational staff at those educational institutions they are studying at
- persons invited to Russian Federation as teachers, for teaching in educational institutions, with the exception of persons, entering Russian Federation for teaching in institutions of professional religious education (ecclesiastical educational institutions).

After receiving of permit expatriate may carry out his/her labor activity only on the territory of that constituent territory which issued him/her permit.

To receipt permit for involvement and employment of expatriates employer or its person entitled (applicant party) files an application in the form approved by Federal migration service to a migration service authority, directly or by registered letter. The following documents are attached to the application:

a) for Russian legal entity:

- copy of certificate of registration in Uniform State Register of Legal Entities

- copy of certification of registration in tax body at the place of incorporation for foreign legal entity;
- copy of certificate of registration of legal entity
- copy of certification of registration in tax body at the place of incorporation in Russian Federation
- copy of certificate of affiliate opening and copy of certificate of its accreditation or copy of permit for representative office opening and copy of certificate of its accreditation;

b) labor contract draft or other documents confirming preliminary arrangement with foreign citizens and external partners of intention and of terms of expatriates' involvement. At the same time terms of labor payment and protection of foreign citizens, their social service and insurance are determined with law of Russian Federation with taking into consideration peculiarities provided with international treaties of Russian Federation;

c) document of payment of state duty for issuing of permit for involvement and employment of expatriates to the employer.

Official documents drawn on territory of foreign states, which copies are submitted for receiving of labor permit, should be legalized in diplomatic missions or consular offices of Russian Federation abroad in due course, except as otherwise provided with international treaties of Russian Federation. If documents are drawn up in a foreign language, notarized translation is attached to them. If copies of documents are submitted without originals thereof, then they are also to be notarized (the same refers to documents submitted to migration service to receipt labor permit, issued to a foreign citizen).

Decision of issuing of permit for involvement and employment of expatriates is taken by migration authority within 30 days since the day of filing of application and above mentioned documents. If to take a decision of issuing of such a permit carrying out expert examination of documents is necessary, then decision is taken within the period of 15 days after receiving of expert opinion, but not later than 45 days after the day of submitting of documents.

Permit for involvement and employment of expatriates is sent to an employer by mail or may be issued to a person authorized by an employer within the period of 10 days after taking decision of its issuance.

Reasons for refusal to issue permit for involvement and employment of expatriates is sent to an employer within 5 days period after taking decision of refusal to issue permit.

An employer who receives permit for involvement and employment of expatriates and concluded labor or civil contract, must send within one month:

- to executive authorities on employment of population in correspondent constituent territory of Russian Federation information of involvement of expatriates to labor activities

- information of concluding of labor or civil contracts to State labor inspection in corresponding constituent territory of Russian Federation (territorial body of Federal Labor and Employment Service).

Received permit for involvement and employment of expatriates may not be passed to another employer, and employees involved on its basis may not be redeployed to another employer.

Employer may use expatriates only under their professions and constituent territory (territories) of Russian Federation indicated in permit for involvement and employment of expatriates.

Temporary suspension of validity of issued permit for involvement and employment of expatriates is executed if an employer:

- a) did not provide a foreign citizen involved in labor activities with personal labor permit (see below)
- b) has not informed migration authority about place of temporary stay of an expatriate within the period of 3 days, except as otherwise provided with international treaty of Russian Federation
- c) within the period of 10 days has not informed tax body in the place of its registration about arrival of a foreign citizen to a place of work or to a place of temporary residence, or about his/her receiving of labor permit, or about conclusion of new labor or commercial work (service) contract, or about canceling of personal labor permit to an expatriate
- d) within the period of 3 days has not sent information of violation of covenants in labor or commercial work (services) contract by an expatriate, and also about early termination of the contract
- e) within the period of 3 days has not informed migration service body, territorial authority of Federal authority of executive department of internal affairs, and territorial authority of federal authority of executive department of security, about unauthorized desertion by an expatriate of his/her place of work or place of temporary residence.

Temporary suspension of issued permit for involvement and employment of expatriates is executed on the basis of decision of migration service body with evidence of kind of violation and period of its removal, delivered to an employer on receipt.

Permit for involvement and employment of expatriates is cancelled in the following cases:

- a) submitting of a corresponding application by an employer
- b) liquidation of organization
- c) revelation that employer represented wrong information submitting documents for receiving of permit for involvement and employment of expatriates;
- d) employment by an employer of expatriates outside of permitted constituent territory (territories) of Russian Federation
- e) non elimination of committed violations by an employer within fixed period.

After receiving of permit for involvement and employment of foreign work power employer applies to migration service with request of invitation for entry into Russia for the following receipt of visa to expatriate employee.

Concurrently with this request employer submits documents necessary for issuing of labor permit for each expatriate. Invitation is issued by migration service with labor permit for expatriate.

To receive labor permit of a foreign citizen who arrived to Russia with visa, applicant (employer) submits application to bodies of migration service. The following documents are attached to this application:

- a) 30 x 40 mm color photo of a foreign citizen
- b) copy of a document of professional education, qualification, received by an expatriate in a foreign state, or certificate of equivalency of such document to Russian diploma (certificate) of professional education
- c) document of payment of state duty for issuing of labor permit
- d) copy of identity paper of an expatriate which validity must terminate not earlier than 6 months from the day of application.

Foreign citizen who entered Russia in an order not requiring receipt of visa, submits application for issuing him/her labor permit personally, or through organization carrying out job placement of foreign citizen in a fixed order, or through his/her agent, with application of the following documents:

- a) ID paper;
- b) migration card;
- c) document of payment of state duty for issuing of labor permit.

Migration service body checks information contained in application and submitted documents, and under the results of their reviewing takes decision to issue labor permit or to refuse its issuance.

Issuance of labor permit is carried out within the limits of fixed quota for issuance of invitations to foreign citizens for entering Russian Federation with the purposes of carrying out of labor activities, annually approved by the Government of Russian Federation.

Decision of issuance of labor permit is made by migration service body: in respect of foreigners entered with visa – within 30 days, in an order not requiring receipt of visa – within 10 days from the day of submitting by an applicant of above mentioned documents.

Migration service body is obliged to issue labor permit within the period of 10 days from the day of making decision to issue labor permit, and in the case of refusal – to inform an applicant in a written form with denotation of a reason of refusal.

Labor permit is issued on conditions that:

- a) a citizen is in age of 18

- b) an employer gets involved foreign citizens in the work under labor or commercial contracts within the limits of quantity set in the permit of involvement and employment of expatriate employees
- c) absence in application of labor permit issuance of invalid or corrupt data, and also circumstances provided with p. 9 of Article 18, law No 115-FZ (citizen endangers Russian Federation and its citizens; finances or is planning to finance terrorist acts; submitted forged deeds or information; suffers conviction for heavy or especially grave crimes and the others).

Labor permit for an expatriate entered Russian Federation with visa is received by an employer, and foreigners entered Russian Federation in an order not requiring receipt of visa, receive the permit personally.

Receiving labor permit an employer must submit medical certificates confirming that an expatriate has no drug addiction and infectious diseases endangering other people, provided with the list approved with Government of Russian Federation, and also HIV absence certificate.

Absence of these documents is ground to refuse to issue labor permit.

Foreigners entered Russian Federation in an order not requiring visa, submit the indicated certificates personally to migration service within 30 days after receiving of labor permit.

Employer must pass labor permit under signature to the expatriate it is documented for, before the beginning of his/her labor activities on the territory of Russian Federation.

In cases provided with p. 9 of the Article 18 of law No 115-FZ, or on the basis of application of an employer, migration service body takes decision of labor permit abolition.

Within the period of 3 days migration service body informs a foreign citizen of the taken decision, and also notifies him/her of necessity to depart Russian Federation. Upon that labor permit should be withdrawn.

Except above described obligations concerning receiving of permits, employers and customers of services are obliged to:

- represent documents necessary for registration of a foreign citizen under his/her place of temporary residence in Russian Federation
- inform tax body in the place of its registration about involvement and employment of employees, within 10 days from the day of filing application of issuance of invitation to a foreign citizen for the purpose of carrying out of such activities, and arrival of a foreign citizen to place of work or place of stay, and receiving by a foreign citizen of labor permit, and making of new labor or commercial work (services) contract with an expatriate employee in Russian Federation, and suspension or cancel of permit of involvement and employment of expatriate employees, and suspension or cancel of labor permit to a foreign citizen, registered as individual entrepreneur, and cancel of labor permit to an expatriate employee

- facilitate exit of an expatriate employee from Russian Federation after termination of labor or commercial work (services) contract concluded with him/her
- pay expenses connected with banishment from Russian Federation or deportation of a foreign citizen employed with violation of order of involvement and employment of expatriates, stated with this law N 115-FZ.
- send to Federal body of migration executive authority or to its territorial body information of violation by an expatriate of terms of labor or commercial work (service) contract, and also of early termination of the contracts
- send to Federal Service of migration executive authority or to its territorial body or territorial body of Federal Security Service information of unauthorized desertion by an expatriate of place of work or place of stay.

According to the Article 18.10 of Code of Administrative Infractions, carrying out of labor activity in Russian Federation by a foreign person or by a stateless person without labor permit, if such permit is required, brings about imposition of administrative fines in the amount of from two thousand to five thousand rubles with banishment from Russian Federation or with without it.

Information was prepared by Representative offices Department of ICLC.

ICLC renders the following services:

- opening of ready to operate foreign representative offices in Moscow with registration in all state authorities
- calculation of salary of employees of a representative and all taxes and duties connected therewith, and also of other taxes and duties
- making out of tax returns / other reports, submitting of returns and returns into state authorities
- representation and protection of interests of foreign organizations and their employees in relationships with state authorities
- consultations on different questions connected with opening and activities of a representative office in Russia