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Changes to Legislation on Foreign Employees

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There have been several amendments recently to Russian legislation governing the employment of foreign citizens and visa procedures for them. Guidance has also been issued on the practical application of certain rules on administrative liability for violation of legislation on the employment of foreign citizens. Although these amendments are not major, they are worth noting for foreign citizens working or planning to work in Russia, and for Russian organizations employing foreign citizens. The following changes are most significant:

The list of foreign citizens eligible to work without a Russian work permit has been expanded. On April 21, 2011, amendments to the federal law on the legal status of foreign citizens in Russia were adopted, according to which foreign citizens invited to Russia for business or humanitarian purposes and also engaged in teaching at scientific organizations and state-accredited institutions of higher education (other than professional religious education institutions) do not require a work permit.

The federal law on the procedure for exit from the Russian Federation and entry to the Russian Federation has also been amended to provide that this category of foreign citizens will be issued ordinary business or ordinary humanitarian visas. Therefore, foreign citizens may more freely engage in teaching in Russia.

The procedure for issuance of visas to family members of foreign citizens entering Russia to work as highly qualified specialists has been established. On March 1, 2011, the procedure for issuance of Russian visas approved by the government — Resolution No. 335 — was amended. Pursuant to the amendment, foreign citizens and stateless persons who are family members of a foreign highly qualified specialist are issued ordinary work visas with the same

duration as the foreign specialist. These work visas allow the family members of the foreign specialist to work, study or engage in other activities in Russia that are not prohibited by law. The term of work visas for the family members of a foreign specialist is renewed if his/her visa is renewed.

The resolution on the maintenance of a database of work by foreign citizens in the Russian Federation has been adopted. On April 16, 2011, this resolution approved the list of information to be entered in the database of work performed by foreign citizens in Russia.

The list contains 20 items and includes, among other things, the professional and personal data of the foreign citizen, health information, employment and income. This means a considerable amount of information on foreign citizens working in Russia is to be collected and recorded for the purposes of migration records.

The Supreme Arbitration Court clarified certain issues concerning the administrative liability for violation of legislation on the employment of foreign citizens. Supreme Arbitration Court Ruling No. 11 of Feb. 17, 2011, states, in particular, that (i) the conclusion of an employment contract with a foreign citizen who does not hold a work permit is not in itself hiring of a foreign citizen and does not constitute an administrative offense per se; the offense lies in actually admitting a foreign citizen who does not hold the respective work permit to perform work; (ii) administrative liability under Article 18.15(3) of the Administrative Penal Code applies for failure to notify the migration authority of the hiring of a foreign citizen, not for late notification of the authority.

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