

Business Trips of Highly Qualified Specialists

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This article is devoted to the issue of organizing business trips for foreign employees working as Highly Qualified Specialists (here and after — HQS) in Russia. Employers try their best to hire HQS due to the fact that they have a lot of pluses. First of all, the companies have to pay less in taxes for a HQS. Second, HQS has an opportunity to get a work permit and a multiple work visa for three years in just 14 days, while hiring a foreign employee by an ordinary procedure takes several months.

Additionally, HQS can stay in Russia without registration for up to 90 calendar days. In practice, however, being sent on a business trip in different regions of Russia, the specialists face difficulties when hotels insist on a procedure of registration with the obligatory presence of the previous blank of arrival.

The Order by the Health and Social Development Ministry from July 28, 2010 № 564n (here and after — Order) regulates the rules and conditions of business trips for foreign employees.

According to this order, a HQS has the right to go on a business trip for up to 30 days for each trip during the whole period of the validity of his work permit. This means that the number of trips is not limited if the trip does not exceed 30 days each time.

If the nature of the employee's work involves constant business trips, the employer has the right to define this in the labor contract with the employee, and in this case the duration of business trips is not limited.

In comparison, in compliance with this order, ordinary foreign employees, who work by the 1 year work permit, are allowed to be sent on business trips only if they are on posts. Also, the maximum term for business trips is far less than the maximum terms for HQS. Foreign employees without HQS status can be on business trips for 10 calendar days maximum during

the whole period of their work permit. And if constant business trips are a part of the employee's work and are defined in his labor contract, the maximum duration can be exceeded by up to 60 days per year.

As Russian and foreign employees have the same rights and guarantees, we would like to draw attention to several articles of the Labor Code (here and after — the Code) that are devoted to business trips.

Being sent on a business trip, the employee under no circumstances can lose his position and average earnings, nor reimbursement of expenses related to such trips.

According to Article 168 of the Code, the employer is obliged to compensate the employee for all travel and lodging expenses, additional costs associated with living outside the place of residence and other expenses that are agreed upon with the employer.

The order and the limit of the payments should be regulated in local or collective agreements. For example, local agreements should define the amount of daily allowance for the areas where the employee can be sent on a business trip.

In addition, we would like to remind about the necessity to issue travel documents for the employee to go on a business trip. This necessity should be followed only for the employees who do not have constant trips due to the nature of their work.

Currently, the Finance Ministry obliges companies to issue a travel warrant, while the travel order is considered to be an additional document.

However, the travel warrant is not necessary to be issued if the employee is sent on a business trip abroad. In this case, the document can be substituted for copies of the pages from the passport with the border stamps. In this case, it is sufficient to issue a travel order.

Nevertheless, in all cases, the companies usually prefer to issue the travel order as well the travel warrant.

In sum, we recommend that foreign employees and their employers do not neglect migration processes, as this usually leads to administrative fines that limit the future presence of foreign employees who have defined the law.

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