

## On 29 June 2015 the President of the Russian Federation Vladimir Putin signed a new Federal Law No. 200-FZ "On Amendment of Article 64 of the Labour Code of the Russian Federation".

Article 64 requires that if a rejected job applicant asks for it, the employer must provide a written statement of the reasons why he did not get the job. However, the law did not lay down any fixed time period within which the employer was required to do this. In practice, this led to the situation where disappointed candidates often chose not to request written reasons because employers relied on the absence of any fixed time period for a response (making the obligation more or less unenforceable) and simply ignored such requests anyway.

In accordance with the new amendments employers are now required to respond in writing to applicants within seven business days from the date the written request for reasons for refusal of employment is submitted.

Seven days appears to be a fairly short period of time for the preparation of a rejection explanation. It must be kept in mind that an employee may challenge such a response in Court. When replying to an applicant, employers should therefore exercise caution in giving reasons for rejection and make sure that they do not cut across any arguments on justification which they may later wish to use. Employers face increasing risks of discrimination allegations where job applications are rejected without good objective reasons, and an explanation which is vague or inconsistent with facts or other documents will compound that problem.

Article 64 allows a disappointed job applicant to challenge his rejection in Court, and the provision (or absence) of the written reasons could be pivotal in such a challenge. Article 64 does not lay down the degree of detail which the written reasons must include, but it will usually be the case that the more specific and focused the employer's stated grounds, the more credible they will be. This will increase the obligation (practical rather than legal) for employers to keep and maintain proper records of interviews and other recruitment exercises – that way they will have a record of their thinking readily available within the short seven-day window allowed.

In accordance with section 1 of Article 5.27 of the Code on Administrative Offences of the Russian Federation, a failure to comply with the requirement to give a written rejection explanation in due time may result in the imposition of a fine of up to fifty thousand roubles (€800, US\$875, £565). Although this may seem like a cheaper option than a discrimination claim, remember that (a) this is still an offence and (b) a failure to provide any written reasons at all may still be argued to be evidence of discrimination anyway, after all, if there were a legitimate reason for the rejection, why would the employer decline to explain it? In addition, a repeated breach of these rules may lead to the disqualification of the Managing Director for up to 3 years.

Federal Law under No. 200-FZ "On Amendment of Article 64 of the Labour Code of the Russian Federation" comes into effect from July 11, 2015.



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