

Newsletter

New rules in Russia for the remuneration payment for the employees' inventions

December 29th, 2020

Dear Ladies and Gentlemen,

We would like to inform you that the Government of the Russian Federation approved new rules covering the remuneration payment for employees' inventions, utility models and industrial designs ("**Rules**") by the Decree dated November 16th 2020, No. 1848 ("**Decree**").

The Decree comes into force on **January 1st 2021** and will be valid for **6 years**, until January 1st 2027. The text of the Decree is available in Russian [here](#).

Legal regime of employees' inventions

If the employees of your company create patentable objects (inventions, utility models, industrial designs) under their employment duties, or as a specific task, as a rule, exclusive rights to such objects **belong to the employer**.

At the same time, it should be noted that a certain formalization is required to establish the legal regime of employees' inventions - (i) **ensuring the inclusion of the corresponding duties of the employee** in the employment contract, or job description, or (ii) **issuing a specific task** on the creation of the patentable object.

Moreover, the employer must file an application for a patent, transfer the right to obtain a patent, for an employee's invention, to a third party, or inform the employee about the secrecy of the created object, within **4 months** from the date when the employee notified the employer of the creation of the employee's invention. As soon as the employer performs one of these actions, the employee has the **right to receive remuneration**.

The remuneration **cannot be included in the employee's salary** and must be paid separately.

The main developments of the Rules

In 2014, the Government of the Russian Federation established the procedure, rates and

terms for the payment of the remuneration payment for employees' inventions and other patentable objects.

The main change, introduced by the new Rules, is an **increase in the amount of the remuneration, for the use of employees' patentable objects**:

- With regard to the employees' inventions - the remuneration is increased by **3 times** (from one to three average salaries).
- With regard to the employees' utility models and industrial designs – by **2 times** (from one to two average salaries).

Such remuneration is paid within a month, after the expiration of each year, in which the employer used the employee's invention.

If the employer and the employee **have not established** the amount, conditions and procedure for the remuneration payment, **at their own discretion** by an agreement, the **new Rules** will be applied to the relationship between such employee and the employer.

Recommendations for employers

Taking into consideration the above special aspects, of the legal regime of employees' inventions, we would like to suggest the following recommendations:

- Duly formalize the employee's responsibilities for **creation of employees' inventions** – double-check employment contracts and job descriptions, or elaborate specific tasks for creation of the employees' inventions;
- Build the company's internal system of the **formalization of the company's rights** to employees' inventions – develop a notification procedure regarding creation of an invention by employees, sign acts on acceptance with employees, etc.

- Ensure that remuneration for employees' inventions and other patentable objects is paid **separately from employee's salary**: in particular, make sure that such remuneration is made as a separate payment and is indicated on a separate line in the pay slips;
- In case the amount of remuneration is not determined by an agreement with the employee,

it is possible to determine this amount by entering into an agreement (it can be either less, or more, than the amount specified in the Rules), or be guided by the amount specified in the Rules;

- If the amount of remuneration was previously determined by an agreement with the employee, no additional actions are required in this regard.

We hope that the information provided herein will be useful for you. If any of your colleagues would also like to receive our newsletters, please let us know by sending us his/her email address in response to this message. If you would like to learn more about our [Intellectual Property Practice](#) or [Labour and Employment Practice](#), please let us know in reply to this email. We will be glad to provide you with our materials.

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If you have any questions, please, do not hesitate to contact ALRUD partners



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