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ELECTRONIC PERSONNEL DOCUMENT MANAGEMENT IN
THE DIGITAL ECONOMY: REALITIES AND PROSPECTS

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Abstract

The article examines the history of the formation and development of legislation on electronic personnel document management in the Russian Federation. The author analyzes the advantages and disadvantages of introducing electronic personnel document management in the Russian Federation. As a lack of legal regulation of electronic personnel document flow, the author points to the lack of a regulated procedure for conducting negotiations on the conclusion of an employment contract in electronic form. In this regard, it is proposed to use the norms of Chapter 28 of the Civil code of the Russian Federation on the procedure for negotiating a contract, or use the "blockchain" technology. In addition, the author considers it unacceptable to use information systems maintained by the employer as an information system for electronic document management, since this may lead to abuse by the employer, as well as to the loss of electronic documents. In this regard, the proposal to establish the obligation of the employer to use only the state information system, in particular, the website of the Pension Fund of Russia, is argued. The article substantiates the need to take into account the best foreign experience in conducting personnel electronic document management, combining it with Russian experience, in particular, in relation to the combination of vertical and horizontal principles of movement of electronic documents. As a result, the author concludes that it is necessary to switch to electronic personnel document management in the Russian Federation.

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1. Introduction

Issues of legal regulation of electronic personnel document flow concern each employee and employer and become particularly relevant in the conditions of self-isolation and transition to remote forms of work.

In accordance with the decree of the President of the Russian Federation dated may 9, 2017 No. 203 (2007) "on The strategy for the development of the information society in the Russian Federation for 2017 - 2030", modern business faces the task of introducing electronic document management, including personnel issues, into the company's practice (Decree of the President of the Russian Federation dated 09.05.2017 No. 203 «On the strategy for the development of the information society in the Russian Federation for 2017-2030», 2017).

In connection with the implementation of the national project "Digital economy", attempts were made to develop electronic forms of information transfer in labor relations.

By order of the Ministry of the Russian Federation No. 194 of March 26, 2018 "On conducting experiment on digitization of documents and information about the worker on issues of labor relations" (Order of the Ministry of labor of the Russian Federation No. 194 of March 26, 2018 «On conducting an experiment to translate documents and information about an employee on labor relations into electronic form»). From 23 March to 1 October 2018 the experiment was conducted to transfer personnel document in the electronic document with the simultaneous duplication on paper.

24.04.2020 adopted No. 122-FZ "on conducting an experiment on the use of electronic documents related to work" (Federal law of the Russian Federation N 122 «On conducting an experiment on the use of electronic documents related to work», 2020), the provisions of which, in the case of a successful experiment, will be the basis for the final translation of documentary support of labor relations into digital format.

2. Research methodology

The research applied logical, historical-legal, comparative-legal, system methods of scientific knowledge, as well as methods of analysis and synthesis.

3. Results of the research

According to No. 122-FZ "on conducting an experiment on the use of electronic documents related to work", the experiment is conducted until March 31, 2021, inclusive. By this time, the effectiveness of electronic personnel document management should be finally determined.

As the advantages of maintaining electronic personnel document contained the following arguments: reduce costs of paper documents, reducing costs on office equipment and supplies, expediting the process of approval and signing of documents by the speed of information exchange, better monitoring of signing personnel documents electronically, saving time and labor, HR employees, increasing the reliability of the storage of electronic documents, reducing the risk of loss of documents.

Some lawyers point out the following advantages of electronic personnel document management: simplified interaction with the employer's personnel service and easier receipt of state and municipal services, increased protection of documents from forgery (Kolchushkina, 2020), increased transparency of personnel document management (Kondratov, 2020), saving office space for storage, providing access to the archive of documents, prompt provision of documents to regulatory authorities (Zykova, 2020), faster familiarization of employees with local acts of the company, and even taking care of the environment by saving paper (Vodogreeva, 2020).

An undoubted advantage of the personnel document flow is the absence of the employer's ability to forge these documents when submitting them to the court in connection with the consideration of an employment dispute. For example, in cases of non-payment to an employee of the far Eastern surcharge and the district coefficient, employers change the structure of wages in the payment sheet submitted to the court so that the far Eastern surcharge and the district coefficient are separately allocated. Since the payment sheet issued to employees do not contain the signature of the employer's representative, the courts attach to the case a version of the payment sheet provided by the employer. The introduction of electronic document management would eliminate the possibility of forgery by the employer of the payment sheet.

The disadvantages of electronic personnel document management include technical difficulties: if an electronic document is lost from the corporate information system, it will be difficult for an employee to restore their rights, problems of data transfer protection and legal significance of electronic documents, including in court disputes, difficulties in archival data storage, since the validity of the document's electronic signature certificate is lost during storage for 50 years or 75 years, and the document itself can be converted to new formats, in this regard, it will be difficult for an employee to protect their rights if they apply for their protection 10-20 years after the conclusion of an electronic employment contract (Kolchushkina, 2020), the high cost of purchasing and using an electronic digital signature for each employee (Zykova, 2020), the risks of unauthorized use of data by third parties, software errors in the transmission or processing of information, low computer literacy of some employees and distrust of electronic documents (Kondratov, 2020).

Ofman (2018) draws attention to the fact that the refusal of at least one employee to use an electronic signature in labor relations may lead to duplication of electronic and traditional ("paper») personnel document management, which in turn can lead to additional financial costs on the part of employers.

Despite the shortcomings, in General, we should agree with scientists who consider it necessary to switch to electronic document management (Zakalyuzhnaya, 2019).

I would like to note that at the moment the current legislation allows you to conclude an employment contract with a remote employee in electronic format (article 312.2 of the Labor code of the Russian Federation) (Labour code of the Russian Federation..., 2001).

Chapter 49.1 of the Labor code of the Russian Federation does not mention the possibility of concluding a training agreement with a remote employee in electronic form. At the same time, we can agree with the authors who believe that in Chapter 31 of the Labor code of the Russian Federation it is advisable to fix all forms of vocational education and training (article 196-197): higher education; secondary vocational education; vocational training (retraining); advanced training; internship (Petrov & Lada, 2020).

In this regard, it is also advisable to provide for the possibility of concluding a training agreement with a remote employee by exchanging electronic documents.

Another example is the introduction of electronic labour books. The authors draw attention to the need for the FIU to maintain a single information base that includes both information within the framework of mandatory pension insurance and information about the employee's work (Lada, 2020).

Foreign countries have long switched to electronic personnel document management. However, in foreign countries there are significant differences from the Russian personnel document flow.

In Russia, the personnel document flow is based on a vertical principle, ensuring the movement of documents from the Manager to the performer and back. In foreign countries, the horizontal principle is used - from performer to performer, bypassing the manual.

In Russia, the document is subject to mandatory registration in special journals, which is handled by special personnel who are not related to the documents themselves and their content. In foreign countries, registration of documents is performed by direct executors, and no specialized divisions are created that deal with clerical work (Kotova & Sergeeva, 2017).

The introduction of electronic personnel document management will allow you to use progressive foreign experience, combining it with Russian. This system will allow to use the horizontal principle of personnel document management. In addition, using the experience of foreign countries, it is necessary to create a special state body engaged in the storage of electronic documents (Surovceva, 2017).

There are certain legal problems when switching to electronic document management.

1. The law provides the possibility of concluding an employment contract in electronic form. However, the law does not disclose or regulate the procedure for negotiating an employment contract. A similar gap is contained in article 312.2 of the Labor code of the Russian Federation in relation to remote workers. This rule may lead to legal disputes about the establishment of the fact and time of the employment relationship. The solution to this problem may be to make changes to the Labor code of the Russian Federation and settle the procedure for negotiating an employment contract in electronic form. For example, you can partially use the norms of Chapter 28 of the Civil code of the Russian Federation (Civil code of the Russian Federation..., 1994). We can also agree with the authors who suggest using blockchain technology as an alternative (Kurennoj & Kostyan, 2019).

In clause 8, part 2 of article 5, no. 122-FZ, the employer is given the opportunity to choose an information system for electronic document management: the website "Work in Russia" or its own. The use of information systems maintained by the employer, in the event of an employment dispute, may provide an opportunity for the employer to establish obstacles to the employee obtaining reliable information. If there are failures in the employer's system, data may be lost, so it is necessary to establish the employer's obligation to use only the state information system. To do this, it is necessary to make appropriate changes to clause 8, part 2 of article 5, No. 122-FZ.

2. There may be problems with computer literacy of low-skilled workers, as well as their lack of necessary technical means. The law does not address the issue of whether an employer will be required to provide employees with technical means to familiarize themselves with electronic documentation.

4. Conclusion

After analyzing the legislative, empirical and scientific material on electronic personnel document management, we can come to the following conclusions.

1. In the digital economy, there is a need to switch to electronic personnel document management. However, there is a question about the format of such a transition. It seems necessary not to use e-mail, the internal information system of the employer, or even the website "Work in Russia", but to use the information system exclusively of the FIU website. Taking into account the fact that the FIU keeps records of electronic workbooks, and uses backup to preserve data, the information on one site will be the most complete.

2. It is Necessary to use the best foreign experience for to reforming Russian labor legislation in the field of electronic document management, using a combination of vertical and horizontal principles.

3. It is Necessary to make changes to the Labor code of the Russian Federation and regulate the procedure for negotiating an employment contract in electronic form. For example, you can use the norms of articles of Chapter 28 of the Civil code of the Russian Federation or blockchain technology.

4. Taking into account the experience of foreign countries, it is necessary to create a special body that will deal with the storage of archival electronic personnel documents.

5. When storing electronic personnel documents in the information system, it is necessary to ensure that the data of the electronic document can be saved when it is reformatted in the event of changes in the future document formats.

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