



**IZMENE I DOPUNE ZAKONA O STRANCIMA
I ZAKONA O ZAPOŠLJAVANJU STRANACA**

**AMENDMENTS TO THE LAW ON FOREIGNERS
AND LAW ON THE EMPLOYMENT OF FOREIGNERS**

JPM

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Dana 25. aprila 2019. godine Narodna skupština Republike Srbije usvojila je Zakon o izmenama i dopunama Zakona o strancima („Sl. glasnik RS“, br. 31/2019) i Zakon o izmenama i dopunama Zakona o zapošljavanju stranaca („Sl. glasnik RS“, br. 31/2019) koji su stupili na snagu dana 07.05.2019. godine, pri čemu se pojedine odredbe istih, posebno naznačene u daljem tekstu, primenjuju od kasnijeg datuma.


Izmenama navedenih zakona ubrzava se, odnosno olakšava procedura izdavanja radnih dozvola strancima u Republici Srbiji davanjem mogućnosti za podnošenje objedinjenog zahteva za odobrenje, odnosno produženje privremenog boravka stranca i dozvolu za rad. Ova odredba počinje da se primenjuje od 01.12.2020. godine dok će ministar nadležan za unutrašnje poslove i ministar nadležan za poslove zapošljavanja u roku od šest meseci od dana stupanja na snagu izmena zakona doneti propise kojima se uređuje izgled i sadržina obrasca objedinjenog zahteva.

Propisano je da stranac, kome je izdata viza za duži boravak po osnovu zapošljavanja, ostvaruje pravo na zapošljavanje u skladu sa propisima koji uređuju zapošljavanje stranaca, kao i da pre isteka roka važenja vize za duži boravak po osnovu zapošljavanja, stranac podnosi zahtev za odobrenje privremenog boravka po osnovu zapošljavanja, ako njegovo poslovno angažovanje u Republici Srbiji traje duže od roka važenja vize za duži boravak. Radna dozvola izdata na osnovu vize za duži boravak po osnovu zapošljavanja izdaje se najduže na period važenja vize. Navedene odredbe primenjivaće se od dana 01.01.2020. godine.

On 25 April 2019 the National Assembly of the Republic of Serbia adopted the Law on amendments to the Law on foreigners (“Official Gazette of RS”, no. 31/2019) and the Law on amendments to the Law on the employment of foreigners (“Official Gazette of RS”, no. 31/2019) which entered into force on 7 May 2019, whereby certain provisions specifically referred to below, shall become applicable from a later date.

Amendments of the above mentioned laws are adopted in order to speed up and facilitate the procedure for issuing work permits to foreigners in the Republic of Serbia by granting the possibility of a consolidated application submission for the approval or extending of the temporary residence approval and a work permit to a foreigner. This provision shall become applicable from 1 December 2020, while the minister in charge of internal affairs and the minister in charge of employment shall enact bylaws that shall regulate the appearance and content of the request for consolidated application form within six months from the date of entering into force of the law amendments.

It is stipulated that a foreigner to whom a long-term residence visa based on employment has been issued, has the right to employment in accordance with the regulations governing the employment of foreigners, as well as to, before the expiration of the validity of a long-term residence visa based on employment, submit a request for the approval of a temporary residence approval on the basis of employment, if his business engagement in the Republic of Serbia lasts longer than the validity period of the long-term residence visa. A work permit issued on the grounds of a long-term residence visa based on employment is being issued for the period of validity of the visa. These provisions shall become applicable as of 1 January 2020.

A man in a dark grey suit, light blue striped shirt, and dark blue tie is shown from the chest up. A white world map is overlaid on his chest. At the bottom of the image, two hands are shaking. A semi-transparent grey box containing text is centered over the lower part of the man's torso.

Izmenama navedenih zakona ubrzava se, odnosno olakšava procedura izdavanja radnih dozvola strancima u Republici Srbiji.

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Nakon donošenja Zakona o izmenama i dopunama Zakona o strancima, više nije neophodno da stranac kojem je izdata viza za duži boravak po osnovu rada u Republici Srbiji i za taj rad mu je u skladu sa propisima koji uređuju zapošljavanje stranaca potrebna radna dozvola, nakon ulaska u Republiku Srbiju podnese zahtev za privremeni boravak.

Izmenama zakona je predviđeno da pre izdavanja vize, diplomatsko-konzularno predstavništvo uvek pribavlja prethodnu saglasnost Ministarstva unutrašnjih poslova, dok je ranije to činilo samo kada je to predviđeno aktom Vlade kojim se utvrđuje lista država za čije državljane je neophodno pribaviti prethodnu saglasnost za izdavanje vize.

Novinu predstavlja i odredba koja predviđa da je stranac kome je izdata viza dužan da u Republici Srbiji boravi u skladu sa svrhom, odnosno u skladu sa osnovom zbog kog mu je viza izdata. Postupanje suprotno ovoj odredbi, pored do sada propisanih sankcija, za posledicu ima i plaćanje novčane kazne u iznosu od 5.000 do 150.000 dinara.

Predviđeno je da se privremeni boravak može odobriti određenim kategorijama stranaca kako bude utvrđeno uredbom Vlade Republike Srbije.

Novim izmenama omogućeno je podnošenje zahteva za odobrenje i produženje privremenog boravka elektronskim putem iz Republike Srbije i iz inostranstva. Ova odredba počinje da se primenjuje od dana 01.01.2020. godine. Ministar nadležan za unutrašnje poslove će u roku od šest meseci od dana stupanja na snagu zakonskih izmena doneti propis o bližim uslovima za podnošenje zahteva za odobrenje privremenog boravka elektronskim putem.

Proširen je i krug lica koja se smatraju užom porodicom u smislu Zakona o strancima, tako da se sada tu ubrajaju i roditelji, odnosno usvojitelji dece do navršanih 18 godina života koja nisu zaključila brak.

After entering into force of the Law on the amendments and supplements of the Law on foreigners, it is no longer necessary for a foreigner, to whom a long-term residence visa is issued based on the work in the Republic of Serbia and for which work the obtaining of the work permit is necessary in accordance with the regulations governing the employment of foreigners, to apply for temporary residence approval after entering the Republic of Serbia.

It is envisaged by the amendments of the law that prior to the issuance of a visa, the diplomatic-consular representative office always obtains the prior consent of the Ministry of Interior, while earlier it obtained it only when the obligation was stipulated in the Government act which established the list of countries for whose citizens it was necessary to obtain a prior consent for the issuance of a visa.

Another novelty is also the provision that stipulates that a foreigner to whom a visa is issued is obliged to reside in the Republic of Serbia in accordance with the purpose i.e. the grounds on which the visa has been granted. In addition to already prescribed sanctions, acting contrary to this provision results in the payment of a fine ranging from RSD 5,000 and RSD 150,000.

It is envisaged that the temporary residence approval may be granted to certain categories of foreigners, as it will be determined by a decree of the Government of the Republic of Serbia.

New amendments allow the submission of the request for granting and extending the temporary residence approval in electronic form from the Republic of Serbia and abroad. This provision shall become applicable as of 1 January 2020. The Minister in charge for internal affairs shall render a bylaw on detailed conditions for applying for the temporary residence approval in electronic form within six months as of the date of entering into force of the law amendments.

The circle of persons that are considered as close family in the sense of the Law on Foreigners has been extended, so that parents and adopters of children under the age of 18 who are not married are included.

Izuzetno, članom uže porodice može se smatrati i svaki drugi srodnik državljanina Republike Srbije ili stranca kome je odobren privremeni boravak ili stalno nastanjenje u Republici Srbiji ili drugi srodnik njegovog supružnika ili vanbračnog partnera, koji zavisi od njih i nema adekvatnu porodičnu brigu u zemlji porekla. Pre izmena, ova lica su mogla biti samo srodnici po pravoj liniji.

Uvedene su četiri vrste posebnih ličnih karata za stranca koji je član diplomatskog ili konzularnog predstavništva strane države ili član druge misije koja ima diplomatski status, kao i za članove njegove porodice sa kojima živi u zajedničkom domaćinstvu:

1. diplomatska,
2. službena,
3. konzularna i
4. servisna lična karta.

Pored odobrenja za privremeni boravak stranca, jedan od uslova za izdavanje radne dozvole za zapošljavanje, radne dozvole za upućena lica koja su zaposlena kod stranog poslodavca, radne dozvole za kretanje u okviru privrednog društva registrovanog u inostranstvu, radne dozvole za nezavisnog profesionalaca i radne dozvole za samozapošljavanje može biti i viza za duži boravak po osnovu zapošljavanja. Radna dozvola izdata na osnovu vize za duži boravak po osnovu zapošljavanja izdaje se najduže na period važenja vize za duži boravak po osnovu zapošljavanja. Navedene odredbe primenjivaće se od dana 01.01.2020. godine.

Zahtev za produženje radne dozvole za upućena lica koja su zaposlena kod stranog poslodavca i radne dozvola za kretanje u okviru privrednog društva registrovanog u inostranstvu podnosi se organizaciji nadležnoj za poslove zapošljavanja najkasnije 60 dana pre isteka roka važenja prethodne dozvole.

Uz zahtev za produženje radne dozvole organizacija nadležna za poslove zapošljavanja pribavlja, po službenoj dužnosti, saglasnost ministarstva nadležnog za poslove zapošljavanja i mišljenje ministarstva nadležnog za oblast kojom se uređuje delatnost poslodavca za poslove ili usluge od interesa za Republiku Srbiju. Pre izmena zakona, predmetnu saglasnost i mišljenje pribavljao je podnosilac zahteva.

Exceptionally, any close relative of a citizen of the Republic of Serbia or of a foreigner who has been granted temporary or permanent residence approval in the Republic of Serbia or another relative of his marital and extramarital partner, who is dependent on them and does not have adequate family care in the country of origin, may be considered as a close family member. Before the amendments, these persons could only be relatives in the direct line.

Four types of special identity cards have been introduced for a foreigner who is a member of a diplomatic or consular mission of a foreign state or a member of another mission having a diplomatic status, as well as for members of his family with whom he or she lives in a common household:

1. diplomatic,
2. (official,
3. consular and
4. service identity card.

In addition to the temporary residence approval, one of the requirements for issuing a work permit for employment, work permit for assigned persons employed by a foreign employer, work permit for movement within a company that is registered abroad, work permit for independent professionals and work permit for self-employment may also be a long-stay residence visa based on employment. A work permit issued on the basis of a long-stay residence visa based on employment is issued for the maximum of the validity period of a long-stay residence visa based on employment. These provisions shall become applicable as of 1 January 2020.

The request for extending of the work permit for assigned persons who are employed by a foreign employer and a work permit for movement within a company that is registered abroad shall be submitted to the national employment service no later than 60 days before the expiration of the previous work permit validity period.

In addition to the request for extending of work permit, national employment service shall obtain, ex officio, the approval of the ministry competent for employment and the opinion of the ministry competent for the business activity of an employer for the services of interest to the Republic of Serbia. Prior to the adoption of the law amendments, the subject approval and opinion were obtained by the applicant.

Novina je i da se u postupku izdavanja radne dozvole za samozapošljavanje više ne zahteva podnošenje dokaza da stranac raspolaže odgovarajućom opremom za obavljanje konkretne delatnosti.

Another novelty is that in the process of granting a work permit for self-employment, the submission of the evidence that the foreigner has the appropriate equipment for carrying out a specific activity is no longer required.



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