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### **Retrospective review of the legislation on civil service in the Russian Federation**

*This article examines the development of legislation on the state civil service in the Russian Federation. In the article the characteristic of separate legislative acts devoted to the formation and improvement of public service in the Russian Federation is given. The state civil service of the Russian Federation is a kind of civil service, professional service activity of the citizens of the Russian Federation at the posts of the state civil service of the Russian Federation to ensure the exercise of the powers of the federal state bodies, state bodies of the constituent entities of the Russian Federation, persons substituting the state posts of the Russian Federation and the persons substituting the state posts of the subjects of the Russian Federation. First of all, the law is used for the organization and functioning of the civil service. Legislation on public service is the legal basis for its organization and activities.*

### **Ретроспектива законодательства о государственной гражданской службе в Российской Федерации**

*В данной статье рассматривается развитие законодательства о государственной гражданской службе в Российской Федерации. В статье дается характеристика отдельных законодательных актов, посвященных становлению и совершенствованию государственной службы в Российской Федерации. Государственная гражданская служба Российской Федерации представляет собой вид государственной службы, профессиональную служебную деятельность граждан Российской Федерации на должностях государственной гражданской службы Российской Федерации по обеспечению исполнения полномочий федеральных государственных органов, государственных органов субъектов Российской Федерации, лиц, замещающих государственные должности Российской Федерации, и лиц, замещающих государственные должности субъектов Российской Федерации.<sup>1</sup> Для организации и функционирования государственной службы*

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<sup>1</sup> О государственной гражданской службе в Российской Федерации : федер. закон от 27.07.2004 № 79 – ФЗ // Собр. законодательства РФ. 2016. № 51.

*прежде всего используется закон, право. Законодательство о государственной службе является правовой основой ее организации и деятельности.*

**Keywords:** *state civil service; constitutional principles; reforming; legal regulation; professional training; class ranks; law; bill; state employee; authority; state judicial service; qualification requirements.*

**Ключевые слова:** *государственная гражданская служба, конституционные принципы, реформирование, правовое регулирование, профессиональная подготовка, классные чины, закон, законопроект, государственный служащий, орган власти, государственная судебная служба, квалификационные требования.*

Certification is a legal extender of democratic principles in personnel policy and in management of public service of an instrument for ensuring of formation and realization of purposeful personnel policy in public authorities, and also in formation of personnel of management in public authorities.

The federal law No. 79 – the Federal Law from 7/27/2004 "About the public civil service in the Russian Federation" treats the concept "certification" as legal regulator of public service and implies, compliance of the civil servant of the replaced position of civil service.

It is necessary to carry to main objectives of certification:

- 1) check and an assessment of professional, business and personal qualities of the employee, establishment of its office and official compliance to qualifying standards to service;
- 2) observance in practice of the principles of public service;
- 3) law enforcement in system of functioning of the state;
- 4) formation of professional personnel of public authorities;
- 5) identification of potential opportunities of the public servant for the purpose of increase him on service;
- 6) maintenance of stability of public service;
- 7) stimulation of professional development and professionalism of employees.

Certification is necessary for regular definition of professional standard of the employee and degree of its compliance to qualification requirements, it is necessary to carry to those: level of professional education, an experience of civil service or work in the specialty, knowledge and abilities which are necessary for execution of functions.

Qualification requirements for replacement of positions of civil service are established according to categories and groups of positions of civil service, area and a type of professional office activity of the civil servant.

So, for example, for replacement of positions of civil service of categories "heads", "assistants (advisers)", "experts" of the highest and main groups of

positions of civil service existence of the higher education not lower than the level of a specialist program, magistracy is obligatory.

According to the Decree of the Russian President No. 110 from 2/1/2005 "About carrying out certification of the public civil servants of the Russian Federation" certification of public servants is carried out by the item 4 time in three years that assumes optimum term for an assessment of compliance of the civil servant of the replaced position.

Besides the specified term the public civil servant can be exposed to extraordinary certification after adoption in accordance with the established procedure of the decision on reduction of positions of civil service in public authority or on change of terms of payment of work of civil servants, and also by agreement of the parties the office contract with result of the annual report on professional office activity of the civil servant. It should be noted that certification in case of reduction of positions is the right of the head, but not a duty.

According to epy item 3 of the Decree of the Russian President No. 110 from 2/1/2005 "About carrying out certification of the public civil servants of the Russian Federation", the requirement about obligatory carrying out certification once in three years don't extend to civil servants:

a) worked in a post of civil service less than one year (it is connected with the fact that the civil servant who has worked less than one year hasn't gained necessary experience in this connection objectively it isn't possible to estimate his activity);

b) achievement of the age of 60 years (in this case carrying out certification is inexpedient since the urgent office contract is concluded with the specified public civil servants);

c) pregnant women;

d) being on a maternity leave and on a child care leave before achievement of age by him three years;

e) the replacing positions of civil service of categories "heads" and "assistants (advisers)" with which the urgent office contract is concluded;

e) within a year from the date of passing a qualification examination. The provision on carrying out certification of the public servant who is at the corresponding position of the state position establishes an order of carrying out certification.

When carrying out certification the following documents are estimated:

1) the motivated review of execution by the civil servant of functions prepared by the direct head of the public civil servant for the certification period;

2) data on the instructions executed by the civil servant and the draft documents prepared by him, at the note of the civil servant on a response of the direct head.

According to the item 12-13 of the Decree of the Russian President No. 110 from 2/1/2005. "About carrying out certification of the public civil servants of the Russian Federation", the specified response is provided in certifying commission not later than two weeks prior to certification.

Response is one of the main written documents confirming the fact of performance or non-performance by the certified civil servant of the labor duties assigned to him.

Recognition of the public servant by certifying commission not corresponding to the held state position can entail formulation of the question about his professional retraining or from his consent on the transfer to subordinate (other) position or on dismissal.

It should be noted that a response has sometimes subjective character. What indicates insufficiency of techniques, used at certification, for receiving reliable information about efficiency of performance certified the duties and realization of powers

In the activity the certifying commission is guided first of all by it the principles as:

- 1) principle of objectivity;
- 2) principle of publicity;
- 3) principle of competence;
- 4) the principle of independence, namely independence of members of certifying commission of interests of the representative of the employer or the certified public civil servant.

As a result of certification the public civil servant is given one of the following estimates:

- 1) corresponds to the replaced position of public service;
- 2) corresponds to the replaced position of civil service on condition of successful passing of professional retraining or professional development;
- 3) doesn't correspond to the replaced position of civil service. Results of certification are entered in the appraisal sheet of the civil servant which is signed by the chairman of the commission, the vice-chairman, the secretary and members of certifying commission who were present at a meeting.
- 4) corresponds to the replaced state position of civil service and it is recommended to inclusion in accordance with the established procedure in a personnel reserve for replacement of a vacant post of civil service as official growth.

This decision taking into account the situation provided by the item and item 23 of the Decree of the Russian President No. 110 from 2/1/2005 "About carrying out certification of the public civil servants of the Russian Federation", has to have a certain legal value, act as a basis for office advance of the civil servant.

However it is possible to draw a conclusion that it isn't peculiar to certification of civil servants as doesn't answer the purpose of certification and doesn't provide equal access for citizens to public service and, respectively, contradicts the rule of formation on a competitive basis for replacement of positions of civil service of a personnel reserve.

And also doesn't allow define:

- in what of personnel reserves the civil servant to inclusion is recommended (in a federal personnel reserve, a personnel reserve of federal public

authority, a personnel reserve of the subject of the Russian Federation or in a personnel reserve of public authority of the subject of the Russian Federation);

- on what of higher positions of civil service the civil servant is subject to inclusion in a personnel reserve;

- on the basis of what data the certifying commission has established compliance of the civil servant to qualification requirements for a higher position of civil service;

- what legal consequences are attracted by this decision of certifying commission concerning the civil servant in case of reflection of opinion of certifying commission in the decision of the representative of the employer (the legal act of public authority).

Carrying out certification is one of problems the fact that the main method of an assessment of civil servants is the expert method. At the same time the structure of the corresponding groups of experts (for example, the contest committee or certifying commission) is regulated by the Federal law No. 79 – the Federal Law from 7/27/2004 "About the public civil service in the Russian Federation" and the relevant decrees of the President of the Russian Federation on holding a competition at reception on civil service and certifications of civil servants.

The qualification examination is held by one of the above-named commissions. In the Provision on a competition the list of methods of an assessment of candidates for replacement of a position of civil service is specified, including: interview, group discussion; questioning; writing of the paper; testing all methods are offered for an assessment of all candidates for replacement of positions of civil service of all categories and groups of positions, increase costs of technologies of an assessment and reduces efficiency of personnel work.

In the Decree of the Russian President No. 110 from 2/1/2005 "About carrying out certification of the public civil servants of the Russian Federation", such indicators are absent.

In the Decree of the Russian President No. 110 from 2/1/2005 "About carrying out certification of the public civil servants of the Russian Federation", in the section II, the p. 13, item 2 is only noted that in a review of execution by the civil servant who is subject to certification for the certified period the assessment of professional, personal qualities and results of his professional office activity is considered.

The expedient solution of this problem is, preparation the draft of the regulatory legal act in which the provision on passing of test of the public civil servant would be approved.

Situation has to include such sections as: purposes and problems of test; definitions of the basic concepts disclosing the content of the applied technologies and procedures of test; methods of an assessment of results of test which would include methods of an assessment of professional suitability of public servants after end of a trial period, legal regulation of results of test; final provisions.

Other problem when carrying out certification of the public civil servants is a problem of an assessment of the identity of the worker.

As methodical providing the certification procedure various means can be used: psychological tests, questionnaires, questionnaires, sheets of expert poll, forms for a self-assessment of administrative abilities and vocational competence. In a word, starting point of an assessment and certification of shots is detection of personal and professional features of personnel. It, in turn, demands application of the diagnostic means adequate to goals and allowing to express quantitatively both internal state of people, and their relations with the world around. Objective, precisely and evidence-based criteria of professional qualities of the public civil servant have to become a basis for creation of methods (ways) of a full and comprehensive assessment of office activity of all positions of the public civil servants.

Thus, problems of further improvement of the regulatory legal base concerning carrying out certification of personnel, development of the modernized techniques and procedures of her carrying out represent urgent and demand innovations taking into account dynamic development of labor market.

At the same time it should be noted that such difficult and many-sided process as certification can be effective only at observance of a number of requirements, including consecutive implementation of research, organizational and administrative and legislative actions.

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