

Clarifications to the self-regulating organizations legislation

Dmitry Pavlov, Lidings Associate

Two years have passed since the adoption of the law on self-regulation in construction. Within this period it became evident that some adjustments and clarifications to the legislation are indispensable.

In the late June 2010 the legislation on self-regulating organizations (SRO) has been slightly amended. The changes that have been introduced to the Town Planning Code of the Russian Federation and to a number of federal laws, were mainly connected with the status of SRO members as well as relations between them.

Firstly, minimal requirements for issuing of certificates of access have been specified. For instance, as far as construction management work is concerned, the minimal requirements are determined as the availability of staff with higher professional education for conducting certain types of construction management activities. Furthermore, site managers must have higher education in the appropriate field. That requirement also includes not less than seven years' work experience in construction sphere. Also, once in five years, staff must undergo professional training with relevant certification.

Secondly, now SRO are entitled to control their members' activities in respect of compliance with technical regulations norms while conducting engineering surveys, drafting project documentation and in process of construction, reconstruction, capital repair of objects of capital construction.

Thirdly, a company having a certificate of access to project documentation or construction management work, is entitled to conduct the indicated activities on condition that the contract the cost of drafting project documentation or construction management, does not exceed the

estimated cost of drafting project documentation or organizing construction arrangements, on the basis of which that member of SRO made payments to the compensation fund of its SRO. Therefore, under the amendments, the minimal payment depends on the type and cost of the activities planned by the SRO member.

The amendments also provide for some limitations imposed on the allocation of compensation fund resources for the purpose of their reservation. These funds can be placed only in deposits or deposit certificates in Russian credit organizations.

It has been established that the SRO acquires the member status of the National Union of the Self-Regulating Organizations of the appropriate type from the date of introducing the information on that organization to the State Register of SRO.

As for the authorities of national unions of self-regulating organizations, it also has been specified, in particular with regards to decision-making process while making payments with regard to the subsidiary liability imposed on a self-regulating organization, which has been excluded from the State Register of SRO.

We believe that the amendments described above can have a positive impact on the business of construction, design and engineering companies as those amendments are aimed to clarify the new self-regulation system thus making it more business-friendly.

The comment has been prepared by Dmitry Pavlov, Lidings Law Firm Associate. If any questions occur you can contact him: Dmitry.Pavlov@lidings.com, Phone: +7 495 989-44-10; Fax: +7 495 989-44-20