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**ВЕСТНИК**

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## **LEGAL REGULATION OF ASSIGNMENT OF CLASS RANKS OF MUNICIPAL EMPLOYEES**

**Abstract.** This study is devoted to the study of legal regulation of municipal service by the subjects of the Russian Federation, such issues as the process of municipal service work and the implementation of the status of municipal employees. The practical significance is due to the conclusions and recommendations that can find practical application in the law-making and law-enforcement activities of public authorities of the Russian Federation, as well as local authorities. The proposed approaches to the problems of forming a strategy for the development of municipal service in the conditions of improving the legislation of the subjects of the Russian Federation on municipal service have scientific novelty.

The article analyzes the legal regulation of the assignment of class ranks of municipal employees at the federal and regional level. The main stages of legal regulation of assignment of class ranks of municipal employees, as well as tendencies of legal regulation are revealed, the reasons of change of the legislation of subjects of the Russian Federation are defined. The author comes to the conclusion that the legal regulation of the order of assignment of class ranks in the subjects of the Russian Federation was not the same. Some entities have not adopted any regulatory legal acts in this area. However, considering the needs of the practice, now there is a change of previously adopted regulations. Regions that have not previously regulated this sphere are now adopting regulatory legal acts.

The author has formulated proposals to improve the legal regulation of the assignment of class ranks by legislators of the Russian Federation.

**Key words:** municipal employee, qualification exam, class rank, assignment of class rank.

**Introduction.** The mechanism of regulation of municipal service undergoes essential changes; in this connection, there was a need to consider these processes, to analyze the features of the legislation of the subjects of the Russian Federation. The principles of consistency and interrelation of the state and municipal service do not have sufficient organizational and legal mechanisms for their implementation, so there is a need to clarify and supplement them.

**Methods.** The comparative legal method is used in the analysis of legal norms in the field of municipal service, legal regulation of relations in the municipal service of various subjects of the Russian Federation, as well as municipal legal acts in the study area. The formal-legal method allows analyzing the existing normative legal acts of the subjects of the Russian Federation of different legal force for the presence of gaps and conflicts in them. Regarding the theoretical and prognostic method, it allows us to consider the issues of improving the legislation in order to resolve them.

**Results.** The main tasks of the public authorities are to ensure the rights and freedoms of man and citizen. Nevertheless, in order for these tasks to be really realized, a professional executive apparatus is needed, i.e. the apparatus of state and municipal employees. The main principles of public service – professionalism and competence. They are aimed at ensuring that professionals do the implementation of human and civil rights, as well as freedoms. Through the institute of "class ranks" the differentiation of public servants according to their level of qualification goes. Also for the employee, assignment of a class rank entails adverse consequences in the form of additional cash payments. Accordingly, this will be one of the motivations in maintaining and improving the skills of public servants.

But, in relation to municipal employees, the legislator had carried out the regulation of the “class ranks” institute in different ways. In 1998, the Federal law of January 8, 1998 № 8-FL (Federal Law) "On the basics of municipal service in the Russian Federation" [6] did not determine the existence of class ranks in the municipal service, only qualification categories were established. Qualification categories were established by the legislation of subjects of the Russian Federation. Only in 2008, the municipal service introduced the category of "class rank". Legal regulation of class ranks of municipal employees was established by article 9.1. Federal law of 2 March 2007 № 25-FL "On municipal service in the Russian Federation" [15], which was introduced by the Federal law of 25.11.2008 № 219-FL [7].

These changes occurred in connection with the introduced principles of public service on the relationship of municipal service and civil service (article 5 of the Federal law of 02.03.2007 №25-FL "On municipal service in the Russian Federation»). In spite of the fact that this provision was entered already in 2004 by Art. 4 of the Federal law of July 27, 2004 No. 79-FL "On the public civil service of the Russian Federation" [8]. Part 1 of article 9.1. Federal law No. 25-FL of 2 March 2007 stipulates that the law of a subject of the Russian Federation may provide class ranks of municipal employees and establish the procedure for their assignment, as well as the procedure for their retention when transferring municipal employees to other positions of municipal service and when dismissing from municipal service. While in respect of civil servants, the Decrees of the President of the Russian Federation uniformly define the class ranks, the procedure for passing the qualification exam, cash surcharges for the class rank. For example, the decree Of the President of the Russian Federation of February 1, 2005 № 113 "On the order of assignment and preservation of class ranks of the state civil service of the Russian Federation to Federal civil servants" [11], the Decree of the President of the Russian Federation of February 01. 2005 № 111 "On the order of passing of qualification examination by the public civil servants of the Russian Federation and assessment of their knowledge, skills and abilities (professional level)" [12]. The Federal legislator has not defined any minimum requirements and criteria that should be provided by the regional legislator in the regulation of the Institute of "class ranks". Some researchers make recommendations related to the extension of the Federal regulations on the passing of the qualification exam by civil servants to municipal employees [1].

Thus, the Federal law of March 2, 2007 № 25-FL "On municipal service in the Russian Federation" in the original version did not determine the possibility of establishing the municipal service of class ranks or qualifications. At the same time, in the regional legislation of practical activity of municipal authorities there were different models of assignment of class ranks - qualification categories to municipal employees. In some subjects of the Russian Federation, qualification grades were assigned to municipal employees. In addition, unlike Federal legislation, the subjects of the Russian Federation introduced provisions on the assignment of a class rank as a measure of encouragement (Republic of Ingushetia [13], Krasnoyarsk region [10]). It was provided that the class rank can be appropriated as a measure of encouragement for special merits in municipal service, but:

«1) before the expiration of the term established by the Law for municipal service in the corresponding class rank, but not earlier than in six months of stay in the substituted position of municipal service - not higher than the class rank corresponding to this position of municipal service;

2) after the expiration of the term established by the Law for municipal service in the relevant class rank - one step above the class rank corresponding to the substituted position of municipal service within the group of positions of municipal service to which the substituted position belongs».

The process of adoption of laws is underway, when some regions have repeatedly introduced changes (for example, Novosibirsk province [14], Perm region [3], Krasnoyarsk region, Ulyanovsk province [17]). These regulations were amended in 2016. Special attention can be paid to the Law of the Republic of Khakassia from 06.07.2007 № 39-LRK (Law of the Republic of Khakassia) "On municipal service in the Republic of Khakassia" [16], which stipulates, that class ranks are not established for municipal employees. And in 2016 the Law of the Republic of Khakassia of 10.10.2016 N 63-LRK "On class ranks of municipal employees in the Republic of Khakassia" [9] was accepted. Feature of this law is that it does not establish the basis of assignment of a class rank to the municipal employee in the form of qualification examination passing. It is enough to take into account the duration of municipal service in the previous class rank.

Currently, there are additions relating to the regulation of the procedure for the qualification examination and the assignment of class rank in regulatory legal acts regulating the passage of the municipal service. These innovations are related to the problems that arise in practice in the implementation of regulatory legal acts regulating the assignment of the class rank. For example, in 2011 the issue of implementation by municipalities of the Krasnoyarsk region of the law of 24.04.2008 № 5-1565 "On the peculiarities of legal regulation of municipal service in the Krasnoyarsk region" was actively discussed. Particular attention was paid to the assignment of class ranks to municipal employees and the qualification exam procedure. Representatives of local governments expressed the main problems they face in the preparation and conducting of the qualification exam. It was noted that there was no definition of the procedure for assigning the first class ranks to persons holding municipal positions on the terms of a fixed-term employment contract, as well as municipal employees on parental leave. In addition, according to the representatives of municipalities, the Law does not clearly state the procedure for resolving issues related to the preservation of the assigned class rank in the transition (transfer) of a civil servant to the municipal service. It was noted that the activities on assignment of class ranks to municipal employees in most municipalities of the region has not been organized at the proper level to date [18]. Also, in accordance with the Decree of the Governor of the Krasnoyarsk region of 23.03.2009 № 51-DG (Decree of the Governor) "On approval of the procedure of legal examination of municipal regulatory legal acts of the Krasnoyarsk region", the Department of territorial policy of the Governor of the Krasnoyarsk region conducted a legal examination of municipal regulatory legal acts, submitted by municipalities of the Krasnoyarsk region for inclusion in the Register of municipal regulatory legal acts. As a result of the legal examination revealed inconsistencies with the current legislation on issues related to the implementation of legislation on class ranks of the municipal service. According to article 9.1. The Federal law of 02.03.2007 № 25-FL "On municipal service in the Russian Federation" the order of assignment of class ranks, as well as their preservation in the transition of municipal employees for other positions of municipal service and the dismissal from the municipal service shall be established by the law of a constituent subject of the Russian Federation, if the law of the subject of the Russian Federation provides any class ranks. In Krasnoyarsk region the order of assignment of class ranks to municipal employees was established by articles 4, 4.1. Law of the Krasnoyarsk region of 24.04.2008 № 5-1565 "On the peculiarities of legal regulation of municipal service in the Krasnoyarsk region». That is, establishment of the order of assignment to municipal employees of class ranks belongs to competence of the subject of the Russian Federation and does not belong to competence of local governments of municipalities of a region. However, regulatory legal acts relating to the above-mentioned subject of legal regulation, are issued by local authorities [4].

**Discussion.** Also, article 9.1. The Federal law "On municipal service in the Russian Federation" assumes only the possibility of establishing class ranks in the municipal service, and this, the researchers note [5], can lead to the fact that those entities that assign qualification ranks to municipal employees, of course, will bring their regional laws in accordance with the current legislation. However, there will be subjects of the Russian Federation, which will not consider necessary to appropriate class ranks to municipal employees. Thus, there may be different practices of existence of class ranks in the municipal service, which contradicts the principles established by articles 4 and 5 of the Federal law "On municipal service in the Russian Federation". The essence of these principles lies in the establishment of general requirements for municipal service. But it will be impossible to achieve it if in some subjects of the Russian Federation, class ranks to municipal employees will be appropriated, so they will have an opportunity to keep them at transition from one level of management to another, and in other subjects where class ranks won't be established, municipal employees lose such opportunity. In the latter case, civil servants of the subject of the Russian Federation, who have a class rank and have decided to go to municipal service, will suffer adverse consequences. Now it is possible to note the trend aimed at overcoming this problem at the level of regulatory subjects of the Russian Federation, when the ratio of class ranks of the state civil service of the Russian Federation and the municipal service is established. The ratio of class ranks of the civil service and class ranks of the municipal service is important from the point of view of, first, the organization of state and municipal service, and secondly, from the point of view of protection of social rights of public servants in the transition from public service to municipal service and vice versa. Some regional legislators have already adopted regulations to address this gap. For example, the law of the



Ulyanovsk province of 7.11.2007 № 163-PL (Province Law) "On municipal service in the Ulyanovsk region" introduces the ratio of class ranks of municipal employees, class ranks of the state civil service of the Ulyanovsk province, the qualification categories of civil servants of the Ulyanovsk province [17].

Thus, the legislation of subjects of the Russian Federation regulating assignment of class ranks from 1997 to the present time tends to change. The main objective of this process is to achieve consistency and transparency in the procedures of the assignment of class rank in the municipal service. This process is not yet complete. It is necessary to draw the attention of regional legislators to the regulation of the following issues:

1. sequential assignment of a class rank after a set time of stay in a certain class rank, after their assignment for the first time;
2. the assignment of class rank in accordance with the substitutable position, within a particular group of municipal posts (higher, chief, leading, senior and junior);
3. early assignment of a class rank as a measure of encouragement;
4. terms of stay in the previous class rank, giving the opportunity to receive the next class rank;
5. the list of restrictions that prevent the assignment of a class rank (for example, the presence of a disciplinary sanction);
6. rules of the qualification exam conducting;
7. requirements to the municipal employee applying for assignment of a class rank;
8. evaluation tools used during the qualification examination;
9. conditions of preservation of a class rank at the termination of the office relations.

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### **МУНИЦИПАЛДЫҚ ҚЫЗМЕТКЕРЛЕРДІҢ МӘРТЕБЕГЕ ӨТУ ҚҰРУДЫҢ ҚҰҚЫҚТЫҚ РЕТТЕУІ**

**Аннотация.** Бұл зерттеу муниципалдық қызметтің өтуі және муниципалды қызметкерлердің мәртебесін жүзеге асыру мәселелері бойынша Ресей Федерациясының субъектілерінің муниципалды қызметіне құқықтық реттеуді зерттеуге арналған. Практикалық маңызы Ресей Федерациясының субъектілерінің мемлекеттік органдарының заң шығарушы және құқық қорғау қызметінде, сондай-ақ жергілікті өзін-өзі басқару органдарында іс жүзінде қолдануға болатын тұжырымдар мен ұсыныстар зерттелген. Муниципалдық қызметке арналған Ресей Федерациясының субъектілерінің заңнамасын жетілдіру тұрғысында муниципалды қызметтің даму стратегиясын қалыптастыру мәселелеріне ұсынылған тәсілдердің жаңалығы көрсетілген.

Мақалада муниципалды қызметкерлердің федералдық және аймақтық деңгейлердегі сыныптық шендерін тағайындаудың құқықтық реттеу талданады.

Муниципалды қызметкерлердің сыныптық шенеуніктерін тағайындаудың нормативтік-құқықтық реттеудің негізгі кезеңдері, құқықтық реттеу тенденциялары анықталды, Ресей Федерациясының субъектілерінің заңнамаларын өзгертудің себептері анықталды. Автор Ресей Федерациясының өңірлеріндегі сыныптарды тағайындау тәртібін құқықтық реттеу бірдей емес деген тұжырымға келді. Кейбір субъектілер осы саладағы нормативтік-құқықтық актілерді мүлдем қабылдамады. Бірақ практиканың қажеттілігін ескере отырып, қазіргі уақытта бұрын қабылданған ережелердің, сондай-ақ осы саланы бұрын реттемеген өңірлердің нормативтік құқықтық актілері қабылдануда.

Автор Ресей Федерациясының субъектілерінің заң шығарушылары тарапынан сыныптық шенеуніктердің тағайындалуын құқықтық реттеуді жетілдіру жөнінде ұсыныстар әзірледі.

**Түйін сөздер:** муниципалды қызметкер, біліктілік емтихан, класс атағы, сыныптық атағының берілуі.

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## ПРАВОВОЕ РЕГУЛИРОВАНИЕ ПРИСВОЕНИЯ КЛАССНЫХ ЧИНОВ МУНИЦИПАЛЬНЫХ СЛУЖАЩИХ

**Аннотация.** Данное исследование посвящено изучению правового регулирования муниципальной службы субъектами Российской Федерации, таких вопросов как прохождение муниципальной службы и реализация статуса муниципальных служащих. Практическая значимость обусловлена выводами и рекомендациями, которые могут найти практическое применение в правотворческой и правоприменительной деятельности органов государственной власти субъектов Российской Федерации, а также органов местного самоуправления. Научной новизной обладают предложенные подходы к проблемам формирования стратегии развития муниципальной службы в условиях совершенствования законодательства субъектов Российской Федерации о муниципальной службе.

В статье проанализировано правовое регулирование присвоения классов чинov муниципальных служащих на федеральном и региональном уровне. Выявлены основные этапы нормативно-правового регулирования присвоения классов чинov муниципальных служащих, тенденции правового регулирования, определены причины изменения законодательства субъектов Российской Федерации. Автор приходит к выводу, что нормативно-правовое регулирование порядка присвоения классов чинov в субъектах Российской Федерации происходило не одинаково. Некоторые субъекты вообще не принимали нормативные правовые акты в этой сфере. Но с учетом потребностей практики, в настоящее время происходит изменение ранее принятых положений, так же регионами, которые ранее не регулировали эту сферу, принимаются нормативные правовые акты.

Автор сформулировал предложения по совершенствованию правового регулирования присвоения классов чинov законодателями субъектов Российской Федерации.

**Ключевые слова:** муниципальный служащий, квалификационный экзамен, классный чин, присвоение классного чина.

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