

It became increasingly clear over 2020 that the existing legislation on remote working was not fully up to the challenges faced by the Russian economy during the COVID-19 pandemic, in particular the need of some businesses to place very large numbers of employees onto compulsory remote working arrangements at short notice.

On 8 December, therefore, Russia introduced Federal Law No.407-FZ amending the Russian Labour Code in relation to remote working. Importantly, it gives employers the ability to place employees on remote working arrangements for a temporary basis, without their agreement, in exceptional circumstances. The new rules will come into force on 1 January 2021. It is not yet clear whether the new rules will apply to remote working arrangements already in force as at that date, but the wise employer will assume that they will and that existing remote workers will have to be treated in the same way.

The key changes can be summarised as follows:

- Employers will have the ability to combine an employment contract that contains a fixed place of work with a temporary remote working contract (essentially, to compel the inclusion into the principal contract of provisions obliging the employee to work remotely – usually from home – for a set period).
- There will be three types of remote working contract:
  - Permanent remote working contracts
  - Combined contracts where the period of remote working does not exceed six consecutive months
  - Combined contracts where periods of remote working can be alternated with periods of fixed place working (e.g. office working)

- New arrangements for validly signing documents, including the use of digital signatures, will be introduced. The changes provide that where employment contracts, apprenticeship contracts, etc., are executed or terminated by way of an exchange of electronic documents, digital sign-offs can be used by the parties instead of a “wet ink” signature. In other situations, different types of signature may also be used, provided they are contemplated by an in-house policy or a collective bargaining contract and provide for the effective receipt of documents by the employee and/or employer in electronic form.
- In-house policies, employment contracts and/or collective bargaining contracts must set out in writing the details of changes made to normal arrangements as a result of remote working, namely:
  - The arrangements for requiring employees to attend at their workplace, i.e. when, how often, for what purpose, on what prior notice, etc.
  - The procedure for dealing with holiday requests
  - Any rules around the paying of compensation/expenses to the employee for the use of his/her personal equipment for remote working purposes
  - The requirements for reporting/liasing with staff in connection with the management of any work undertaken
  - The working time pattern for remote working employees (or whether and how far this can be determined by the employees themselves)
  - Any new provisions regarding the signature of corporate/work documents other than by personal (“wet ink” signature) or computer-generated signature
- 407-FZ also introduces new grounds on which the employment of remote workers can be terminated, such as where the employee fails to liaise with the employer without good cause for more than two consecutive working days after he/she was instructed to do so. A permanent remote working contract may also be terminated by the employer where the employee changes the place at which they are working and this makes it impossible for them to carry out their duties under the employment contract, perhaps for technological or time difference reasons or because the new address makes attendance at the workplace when required impracticable. The Russian Labour Code already provides for termination where changes in the employer’s working conditions, including workplace, make



it impossible for the contract to be preserved in its current form and the employee refuses any alternative that the employer is able to offer. Importantly, these changes will remove the existing ability of the parties to agree additional (non-statutory) grounds on which employers can terminate remote working contracts, except for those grounds for dismissal that apply to all types of contract.

- There will be new rights for employers to introduce mandatory remote working arrangements in extraordinary circumstances, such as a disaster, a pandemic or any other circumstances endangering human life. In such circumstances:
  - Employees can be placed on remote working arrangements without their consent for the duration of the disaster, pandemic, etc.
  - Employers must reimburse employees for any costs incurred in using personal or leased equipment at home, as well as any other necessary expenses associated with the remote working requirement
  - Employers must adopt an in-house policy governing such arrangements and communicate this to staff
  - If there is an urgent need to place staff on remote working arrangements, no prior changes to the employment contract are required, though it will obviously still be helpful to tell staff of any necessary changes to working arrangements as soon as practicable afterwards
  - If the nature of the employee’s work does not lend itself to remote working, any time during which the employee is not performing their job is deemed to be “downtime” owing to reasons outside the control of the employer and the employee should be paid not less than two-thirds of their salary for the relevant period

In light of these changes, any employer wishing to have the ability to introduce remote working during the remainder of the current pandemic should consider now what changes would need to be made to its policies and contracts of employment to ensure it will be compliant when the new provisions come into force in the new year. We anticipate that there may be some official guidance or subsidiary regulations made to flesh out some of these rules, particularly around what expenses the employer has to bear when remote working is mandated, so this story is not yet fully complete.

If you have any queries in relation to these changes please contact:



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