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LAWFLASH

COVID-19: RUSSIA STAYS AT HOME – NON-WORK DAYS FROM 30 MARCH–3 APRIL

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President Vladimir Putin called on people living in Russia to stay at home from 28 March-5 April and announced non-work days from 30 March-3 April in response to the coronavirus (COVID-19) pandemic. People are expected to stay at home during the downtime and limit their social contacts and movements. The non-work days are mandatory, save for certain exceptions. This LawFlash discusses these unprecedented measures and addresses some of the issues that may surface for employers.

SELF-ISOLATION REQUIREMENT FOR ALL OF RUSSIA

President Putin delivered an address to the nation on 25 March requesting that people self-isolate from Saturday, 28 March to Sunday, 5 April, and established mandatory non-work days from 30 March to 3 April. These measures were set forth in a presidential decree of the same date (March Decree).

Russian regions and cities also issued their own local-level regulations to mandate that people stay at home and limit social contact. Employers must take these regulations into account when making work-related decisions.

For example, on 29 March, the Mayor of Moscow toughened the requirements concerning getting around in the city. The requirements do the following:

- Limit (ban) all travel throughout Moscow other than travel related to work (for those who are allowed to work) and emergency or similar travel
- Order people to stay at home other than walking to the nearest grocery or pharmacy, or walking domestic animals not further than 100 meters (approximately 328 feet) from the place of living, and in some other limited cases
- Introduce mandatory social distancing of not less than 1.5 meters (approximately 5 feet)—with certain limited exceptions

NON-WORK DAYS

The March Decree sets 30 March-3 April as “non-work days”. This is a novel concept as the Russian Labor Code—the key law governing labor and employment in Russia—does not include a definition of “non-work days”; it only recognizes days off and non-work public holidays, and has certain rules governing work on such days, including the need to obtain employer consent in writing or pay extra compensation. The Russian Ministry of Labor issued its clarifications regarding the March Decree on 26 March, followed by an addendum on 27 March (the Clarifications). Read the Clarifications in Russian [here](#) and [here](#).

The Clarifications explain that the non-work days are to be neither days off nor non-work public holidays. Whether and to what extent employers need to apply the Labor Code rules or can rely on the Clarifications remains an open issue, as explained further below.

EXEMPTIONS

These temporary measures apply to every employer in Russia, whether a governmental agency or a company, or a branch or representative office of a company, including foreign companies, subject to the exceptions listed below.

According to the March Decree, the non-work days do not apply to employees of organizations (Exempt Organizations) generically described as follows:

- › Continuously operating organizations
- › Medical organizations and pharmacies
- › Organizations providing the population with food products and essential goods
- › Organizations performing emergency work in emergency circumstances and in other cases which endanger life or normal living conditions of the population
- › Organizations engaged in emergency repair and loading/unloading operations

The March Decree does not contain any further details or criteria that would help determine whether a particular company (other than a medical organization or pharmacy, for example) is an Exempt Organization.

The Clarifications provide some guidance, but only to a certain extent. The Russian government issued Order No. 762-r on 27 March offering further clarification about organizations that provide the population with food products and essential goods. Further, certain industry regulators issued their own interpretation and guidance, as well as some local governments.

Importantly, as stated in the Clarifications, only employees engaged in the continuity of the production and technological cycle in the industries listed in the Clarifications are excepted from the mandatory non-work days.

Whether a company is an Exempt Organization, and whether the non-work days apply to all or part of its employees, must be determined on a case-by-case basis.

The March Decree contains special rules regarding work during the non-work days for employees of the federal and regional authorities, as well as mass media organizations. In sum, these entities must themselves determine the number of staff who must work to ensure their functioning under the circumstances.

WORK DURING THE NON-WORK DAYS

Generally, an employer is prohibited from requesting that its employees work during days off or non-work holidays. The Labor Code contains rules about when an employer can ask an employee to work during these days. For example, it can ask employees to work on holidays if (1) there is a need to urgently perform unforeseen tasks which are crucial for continued operation of the organization, and (2) the employee consents to work in writing.

It is not clear whether and to what extent the Labor Code rules on work during days off and non-work holidays apply to the recently mandated non-work days. The Clarifications state that employees who have been working remotely before the March Decree are entitled to continue working remotely with the consent of the employer.

The Clarifications also state that employees of the Exempt Organizations can work remotely (meaning from home) per agreement with the employers subject to such employees' job duties and organization and technical terms.

Importantly, the Clarifications require that work in all cases (whether at the workplace or remote work) must be done in compliance with the requirements of the Russian Ministry of Health and the Federal Service on Surveillance for Consumer Rights Protection and Human Wellbeing (Rospotrebnadzor) to prevent COVID-19 spread.

PAYMENTS TO EMPLOYEES

The Labor Code contains rules on how employees must be paid for work during days off and non-work holidays (generally, increased payments to employees). The Clarifications state that the non-work days are not days off and non-work holidays, therefore, payment is made in the usual (rather than increased) amount.

WILL PAYMENTS TO EMPLOYEES BE REIMBURSED?

The March Decree does not provide that employers will be reimbursed for paying employees for the non-work days—payments are at the expense of the employer.

SANCTIONS FOR NON-COMPLIANCE

The March Decree does not introduce any sanctions for violations. However, the March Decree is aimed at ensuring the sanitary and epidemiological wellbeing of the population. Measures to prevent COVID-19 spread are part of the sanitary and epidemiological wellbeing legislation. Violation of this legislation may result in administrative and criminal liability.

We cannot exclude that the non-work rule will be extended beyond 3 April. Morgan Lewis will continue to monitor developments in this area and keep our clients and readers informed with the latest updates.

CORONAVIRUS COVID-19 TASK FORCE

For our clients, we have formed a multidisciplinary **Coronavirus COVID-19 Task Force** to help guide

you through the broad scope of legal issues brought on by this public health challenge. We also have launched a [resource page](#) to help keep you on top of developments as they unfold. If you would like to receive a daily digest of all new updates to the page, please [subscribe](#) now to receive our COVID-19 alerts.

CONTACTS

If you have any questions or would like more information on the issues discussed in this LawFlash, please contact the following Moscow-based members of Morgan Lewis's labor and employment practice (Bela Pelman) and corporate and business transactions practice (Vasilisa Strizh and Dmitry Dmitriev).

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