

The Future is Now: The New World of Work in Russia

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As a result of COVID-19 and measures put in place in response to the pandemic, businesses around the world – including in Russia – have adopted new innovations in the area of employment. One such innovation is work from home.

*A year after the pandemic began, home-office remote work has proven so effective, many believe it will become a fixture of our post-pandemic future. But remote work raises a host of legal and administrative challenges. This article – based on the 2 March 2021 webinar **The Future is Now: The New World of Work in Russia** and hosted by labour law experts Irina Skvortsova and Ekaterina Elekchyan with CMS Russia – explores the impact of homeworking in Russia for both workers and companies.*

Remote work in Russia

The Russian government has not officially ordered a lockdown or a general work-from-home requirement in response to COVID-19, but Senior Associate Ekaterina Elekchyan states that many Russian businesses have implemented remote working regime in the face of the pandemic or have given employees the freedom to work from home.

In addition, different regions in Russia have issued requirements focused on protecting vulnerable workers, such as individuals over 65 years of age and pregnant women.

According to Elekchyan, one of the main issues surrounding the health-and-safety of employees and maintaining business operations during the pandemic is staff mobility.

Staff mobility

At the present time, internal mobility is not a major issue mainly because the relocation of employees to other cities in Russia "is not very developed", explains Elekchyan. Simply put, there is not yet a tradition in Russian business life for employees to be transferred to offices in other cities or areas.

Business travel is a different matter, although domestic and international travel have been curtailed during the pandemic.

Internal travel is rare, but may be required. "Many firms are cancelling and limiting domestic business trips," says Elekchyan, "and send employees out only if it's absolutely unavoidable, such for example as when equipment needs to be installed."

International travel has also been limited. According to Elekchyan, citizens of certain countries can enter Russia with business visas, and technical specialists involved in the installation of sophisticated equipment and technology can enter the country with special visas and regulatory approval.

For these specialists, however, Elekchyan warns that this approval regime can be lengthy (from three to six weeks), and suggests that companies applying to have these workers enter Russia give themselves sufficient time to complete the process. "You have to plan these visits in advance", she says.

What nationalities are eligible to enter Russia? Russia had resumed direct flights with 22 countries.

Employment and relocation

Russian companies can hire foreign specialists, but only under one of two procedures: (i) if employees are highly qualified foreign specialists for whose hiring the employer obtained special approval from its profile ministry; or (ii) if employees are included into special lists by the Federal Service for Labour and Employment based on algorithm of engaging foreign employees in the Russian economy.

The second option will likely to be available for construction workers who are engaged in work at high priority construction sites.

Elekchyan states that eligibility to enter in Russia without obtaining additional approvals is not completely clear in the case of highly qualified foreign specialists who already possess work visas. According to some officials, highly

qualified foreign specialists in this situation can enter the country without any additional approval, while other authorities warn that approval from the supervisory ministry of the employer is necessary even if a specialist has a visa.

"The safest approach would be to ensure that these employees are added to the list of highly qualified foreign specialists whose entry to Russia is approved," says Elekchyan.

Rules for remote work

Although remote work wasn't broadly applied in Russia before the pandemic, at the start of 2021 in response to the pandemic the government amended the Labour Code with new rules regulating its use, states Irina Skvortsova, a Senior Associate and labour law specialist with CMS Russia.

These changes to the Russian Labour Code include:

- A definition stating that no difference exists between the categories of remote work and distant work;
- The requirement that distant work can be introduced at a company through employment agreements with staff members, an addendum to an agreement or internal company regulations;
- The understanding that employees can alternate distant work with work at an established company workplace;
- The understanding that, if agreed upon by the employer and employee, distant work can be conducted on either a permanent or temporary basis.

Simplification of electronic document flow

As part of the new Labour Code regulations surrounding remote work, employees can use a simple electronic signature in some cases when communicating with an employer, explains Skvortsova.

An "enhanced unqualified e-signature" is recognised by the Code, and this e-signature can be applied to an employment agreement, agreement addendum, financial liability agreement, apprenticeship agreement and their termination in a digital format.

For distant employees, other types of e-signatures are acceptable for document exchanges and concluding agreements as long as the e-signature technology is clearly specified in the collective agreement between employees and the company, the firm's internal regulations, the employment agreement or agreement addendum.

And developments are ongoing. According to Skvortsova, "The Ministry of Labour is now developing amendments to the Labour Code that will allow companies to extend electronic document flow to all employees and not only remote and distant employees."

Remote employment agreements

When drafting an employment agreement or addendum for a remote worker, certain provisions should be added. Skvortsova recommends that all agreements for remote work include the following:

- Clearly defined working and rest hours;
- Specific requirements on how and when remote workers should report to managers and supervisors;
- Detailed rules governing how remote employees should interact with employers;
- The procedure employers must follow to summon employees to the office;
- Regulations that must be followed when using company equipment in the home office, and for compensating remote workers for the professional use of personal equipment (e.g. privately owned computers, laptops, phone) or for leasing equipment from a third party;
- The procedure to be followed for granting remote workers holiday or vacation time.

In terms of remuneration of expenses, Skvortsova cautions that Russian law does not require companies to compensate employees for other costs surrounding home-office work, such as utilities consumed (e.g. electricity, natural gas) during working hours.

"But as a matter of practice," Skvortsova says, "employers have generally reimbursed employees for costs of Internet".

Additional grounds for dismissal

The Russian Labour Code has also added new grounds for dismissing employees to reflect the remote-working relationship. According to Skvortsova, an employee can be dismissed for:

- Failure to communicate with the employer about work-related issues without reason for more than two consecutive working days;

- And in the case of permanently assigned distant employees, an employee's inability to continue distant operations under previous terms due to a change of location or residence.

The Labour Code also states that dismissals can only occur for reasons specifically stated in the law. Companies are no longer able to draft their own reasons for dismissal and include them in employment agreements.

Distant work compliance

Employees and employers can agree to implement distant work in a company, but employers can also unilaterally require staff members to work remotely.

According to Skvortsova, a company can do this during an exception situation (e.g. a pandemic) where management believes that the health and safety of employees are in danger. Such an order can be enforced through the passage of an "internal company regulation".

In this situation, the company's work-from-home order can only remain in force for the duration of the emergency in question.

If an employee is ordered from the office but cannot resume work remotely, he will be on "idle time" until it is deemed safe to return to work.

Health and Safety

Although employers have a responsibility to ensure the health and safety of its employees, Russian law does not require companies to "inspect the working place at home" of a remote employee, says Skvortsova.

Different from some countries, companies are also not required to provide employees with ergonomic office furniture, such as chairs, tables and keyboards designed to reduce injuries from repetitive movements.

Employers are required, she explains, to inform remote employees on proper and safe use of equipment, and to investigate (and document) any accidents that may occur while an employee is working remotely.

Employers are also required to ensure remote workers are covered by statutory insurance.

An employer's responsibilities change, however, if a remote employee is required to appear at the company offices. In this situation, employers must ensure worker safety according to Russian law, and must also follow and enforce all government health measures issued in response to the pandemic.

Pandemic health and safety

The specific state measures that companies must adopt when workers are visiting or carrying out duties at a company's place of business include:

- Ensuring that the number of workers in a given work area does not exceed the maximum set by law;
- Strict enforcement of social distancing rules, and ensuring that the floors of work areas are marked to reflect safe distances;
- Temperature measurements of employees every four hours to ensure all workers are in good health;
- Providing all workers with personal protective equipment (PPE) such as masks, gloves, disinfectant;
- Disinfection and cleaning of work areas every two to four hours;
- Installation of "bactericidal air irradiators" to reduce the airborne transmission of viruses;
- Ensuring that all public areas have disinfection stations with wash basins and sanitiser lotions;
- Ensuring that canteen areas are disinfected, safe and suitable for regular visits by workers.

Elekchyan warns that government inspectors may appear at a company worksite in order to check that all epidemiological measures are being fully complied with, stating that any shortcomings, even small ones, may be viewed as noncompliance and could open companies up to liability and sanctions.

How can a company prepare for possible inspections? According to Elekchyan, companies should do the following:

- Ensure that all government measures are included in company internal regulations and are fully communicated to employees, who should indicate their acknowledgement and understanding of these regulations by applying their signatures;
- Set up systems for implementing and maintaining measures that includes careful record keeping.
- Record the purchase of PPEs for staff, disinfectant and sanitisers, and keep all receipts so that these acquisitions can be proven during an audit.

Vaccinations

Of course, employers should protect their employees and create a safe work environment for all staff members, says Elekchyan.

Companies can recommend that their employees be vaccinated, but cannot make vaccination mandatory or make employment contingent on receiving a shot. This does not apply, however, to certain high-risk professions and positions, such as in medical services, where workers are required by law to be vaccinated before carrying out their duties.

The Russian government has issued a comprehensive list of those positions that require vaccinations, which can be consulted if an employer is uncertain about the status of its company or its employees.

For more information or advice on implementing remote work and work from home in Russia, contact your CMS client partner or local CMS experts: **Irina Skvortsova** and **Ekaterina Elekchyan**.

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