

New rules for issuing severance pay in case of dismissals

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Amendments* to the Labour Code of the Russian Federation regarding severance pay will come into force on 13 August 2020.

These amendments are aimed at clarifying the procedure for providing guarantees to and protecting the rights of employees who are dismissed due to the liquidation of their organisation or due to staff redundancy.

Amounts and conditions for providing payments

Currently, upon dismissal due to any of the grounds mentioned above, an employee will be paid severance pay in the amount of one average monthly salary.

The amendments state that the employee is to be paid the average monthly salary for the second month from the date of dismissal if it takes more than one month for the employee to find a new job.

The employee can receive an average monthly salary for a third month from the date of dismissal provided that:

- the employee contacted the Employment Service within 14 working days from the date of dismissal (previously, the period was two weeks);
- the Employment Service could not find a new job for the dismissed employee (within two months from the date of dismissal); and
- the Employment Service adopted a decision that the relevant payment should be made.

The amendments further state that if an employee finds new employment for only part of the second or third month, the average monthly salary for the corresponding month is paid in proportion to the period of time the employee spent searching for a job during that month.

Procedure for providing payments

The amendments establish a new requirement: a deadline for applying for payment of severance pay. To receive the average monthly salary for the second or third month from the date of dismissal, an employee must apply to the employer in writing for payment no later than 15 working days after the end of the corresponding (second or third) month from the day of dismissal. If this deadline is missed, the employee loses the right to receive payment. (We believe that the courts will be inclined to restore this deadline for employees if they have good reasons for having missed it.)

The employer must make payments for the second and third months within 15 calendar days from the date of the employee's application for payment.

One-time compensation instead of payment of average salary

An important innovation is the right of the employer to immediately make a one-time compensation payment to the employee in the amount of twice the average monthly salary for the second and third months of employment search from the day of dismissal instead of paying the average monthly salary for the second and third months in instalments (as indicated above).

If the employer has already paid the average monthly salary for the second month, it has the right to pay a lump-sum compensation for the third month of employment search without having to wait for the employee's application and comply with the above conditions (necessary for the employee to receive the average monthly salary for the third month of job search).

Additional guarantees for employees in the Far North

As before, increased payments are provided for employees dismissed from organisations located in the regions of the Far North (and other areas with the same status). In particular, if they cannot find a new job, they also retain their average salary for the third month from the date of dismissal (without having to contact the Employment Service), and in exceptional cases (provided that they apply for employment through the Employment Service and

the Service makes a decision on payment) also for the fourth, fifth and sixth months.

The term by which these employees must contact the Employment Service to be paid an average salary for the fourth, fifth and sixth months was reduced from one month to 14 working days from the date of dismissal.

The procedure for making payments to persons dismissed from organisations located in the regions of the Far North has been specified in the same manner as for other employees. In particular, depending on the circumstances, payments can also be made not for a whole month, but in proportion to the number of days of job searching in a particular month. A similar period of 15 working days (after the end of the corresponding month) is set for an employee to apply for payment.

In addition, the employer also has the right to pay a lump-sum compensation. In particular, to exclude all subsequent applications of the employee for payments, the employer can pay the employee a lump-sum compensation in the amount of five times the average monthly salary (in addition to the severance pay in the amount of one average monthly salary, which is payable upon dismissal).

Time frame for making payments in the event of liquidation

An important clarification in the amendments is in the event of the liquidation of an organisation whereby all the payments mentioned above must be made before the completion of the liquidation of the organisation (i.e. before making an entry on its termination in the Unified State Register of Legal Entities). This requirement protects the rights of employees since in practice it is impossible for employees to receive the established payments after the completion of liquidation.

Conclusion and recommendations

These amendments are primarily aimed at protecting the rights of employees who have been dismissed on the grounds described above, and in particular in the event of a business liquidation, as the new regulations guarantee that employees will receive appropriate payments before the employer has been liquidated.

Employers should consider the new opportunity to make a one-time compensation payment without waiting for employees to file stage-by-stage applications for receiving payments. In particular, when staff redundancy is implemented, one-time compensation makes it possible for employers to predict in advance the corresponding costs that will be incurred and to avoid the financial burden of subsequent employee requests for payments.

For more information on this eAlert, please contact CMS Russia experts [Christophe Huet](#), [Maxim Gubanov](#) or your regular contact at CMS Russia.

* *In Russian*

KEY CONTACTS



Christophe Huet

Partner | Employment, Moscow



Maxim Gubanov

Senior Associate | Employment, Moscow



