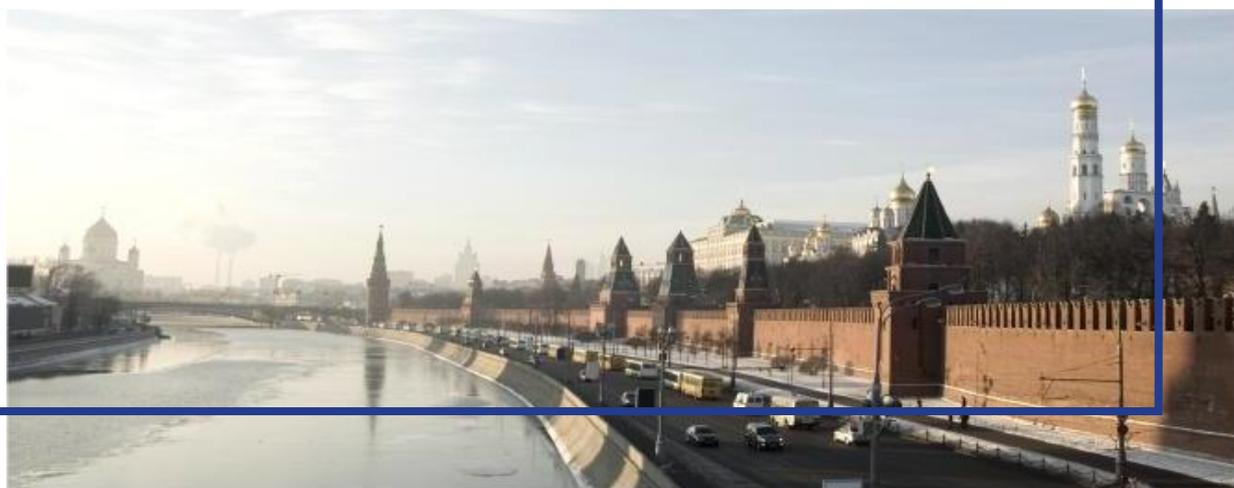


COVID-19. Measures Affecting Businesses



Moscow, 24 April 2020

1. MEASURES TO SUPPORT BUSINESSES

FEDERAL MEASURES

I. Measures proposed by the President

On 15 April 2020 the President, while addressing the members of the Government, announced the following anti-crisis measures concerning businesses:

- Small and medium sized enterprises¹ from the list of industries affected by the spread of COVID-19, adopted by the Government decree No. 434 dated 3 April 2020, will receive direct gratuitous assistance in order to pay and maintain salaries in April and May. For your information, the list as of today includes the following industries: passenger transportation, tourism, hotel, culture, art and leisure businesses, sports and recreation activities, including health resort organizations, catering services, additional education for children and adults, daycare services for children, organization of conferences and

¹ As a reminder, small and medium sized enterprises (SMEs) under the Russian law include the companies in which at least 51% of the charter capital should be held by individuals or other SMEs. The share of other companies, not being SMEs, should not exceed 49% and the share held by the state, region or non-profit organizations shall not exceed 25 per cent. The share of a foreign entity, whether a large enterprise or an SME, should not exceed 49%.

Besides,

- Microenterprises cannot employ more than 15 persons, while their revenue cannot exceed 120 million roubles.
- Small enterprises cannot employ more than 100 persons, and their revenue cannot exceed 800 million roubles.
- Medium sized enterprises cannot employ more than 250 persons, while their revenue cannot exceed 2 billion roubles.

Please note that all SMEs shall be included in a relevant register.

exhibitions. In order to receive such assistance, the companies will have to maintain the employment level of at least 90% of the full-time staff as of 1 April 2020. The amount of assistance is 12,130 rubles per month for each employee. In order to get such assistance, employers will need to file an application during May. The first payment of assistance (for April) will be available to employers on 18 May 2020.

- As part of the state program, banks have already started issuing interest-free loans to pay salaries for an up to six months period. The loan amount will be calculated based on the number of employees multiplied by the minimum wage and the loan term. At least 75% of interest-free salary loans must be guaranteed by Vnesheconombank. This measure should also apply to medium and large enterprises from the above-mentioned list of affected industries.
- Small and medium enterprises involved in retail of non-food products shall be included in the list of affected industries starting from 28 April 2020.

During the meeting of the President of 8 April 2020, he gave the following instructions:

- The government should introduce a six-month deferred payment of social contributions for all affected small and medium enterprises.
- Tax debts of small and medium enterprises, that have been granted a six-month deferral on all taxes (except VAT), will be restructured. They can be discharged gradually on a monthly basis in equal parts for at least a year after the end of the deferral.

II. Measures adopted by the Government:

- According to the Government decree No 440 dated 3 April 2020, starting from 6 April 2020 a number of fixed-term licenses and other permits, which expire within the period from 15 March 2020 to 31 December 2020, have been extended for 12 months.

III. Measures concerning corporate procedures

- Federal law No 115-FZ amending corporate procedures in Russian joint stock companies and limited liability companies entered into force on 7 April 2020. It provides that in 2020, the annual General meeting of shareholders must be held at a time determined by the board of directors (the supervisory board), but not later than 30 September 2020. The general meeting of the shareholders of a limited liability company must also be held not later than 30 September 2020. Normally, such a meeting would be held in the period from 1 March to 30 April 2020 (inclusive) of the year following the financial year. As a reminder, until 2021, the general meeting of shareholders can be held through absentee voting, regardless of the issues on the agenda.

LOCAL MEASURES

The Moscow authorities adopted Moscow Government decree No 405-ПП dated 15 April 2020, which introduces another package of measures to support businesses due to the COVID-19 crisis and the introduction of high-alert regime. The measures include:

- Small and medium enterprises of all types of activity will receive subsidies to pay the interest rate on loans (up to 6% or 8% per annum respectively, depending on whether the loan was taken before or after 15 April 2020);
- Cinemas, organizations of additional education, health resorts and recreation centers, as well as organizers of exhibitions and conferences will be granted a deferred payment of advance payments for the first quarter of 2020 for the property tax of organizations and land tax. The deferral period lasts until 31 December 2020.

- Organizations that own hotel premises will receive compensation for property tax and land tax for the second quarter of the year. If the owner of the premises rents them out for hotel accommodation, they will be compensated only if the rental rate for this period would be reduced by at least 50%;
- Small and medium enterprises that lease real estate owned by the city and have previously signed agreements to buy it out, can transfer repurchase payments for the second quarter until 31 December 2020, inclusive.

2. LABOUR-RELATED ISSUES

The Government decree No 486 dated 12 April 2020 introduced temporary rules for employers to submit employment information.

- Starting from 13 April 2020, companies must publish the following information on the portal "Work in Russia" ("Rabota v Rossii"):
 - on liquidation of the company;
 - on staff reduction or drawdown;
 - on possible termination of employment agreements;
 - other information about employment to be further determined by the Russian Ministry of Employment.

To transmit data, employers need to register on the site and log in to their personal account. If the information changes, they will need to modify the information on the portal not later than the next business day. The temporary rules are valid until 31 December 2020.

The Social Insurance Fund has issued a memorandum clarifying the provisions of the Government decree No 402 dated 1 April 2020 according to which employers must create a register of information on employees who have reached the age of 65 on 6 April 2020, and send it to the local department of the Social Insurance Fund at the place of their registration.

3. STATE SUPPORT FOR STRATEGIC ORGANISATIONS

Clear criteria for classifying organizations as strategic have not yet been developed. The Government is expected to finalize the list of such organizations.

For these organizations a special credit product will be introduced – soft loans for working capital financing. The government will subsidize the rate for such a loan in the amount of the key interest rate. In addition, half of this loan will be provided with state guarantees of the Ministry of Finance.

4. COURT PRACTICE

The Supreme court has published Court practice review No 1 related to COVID-19 dated 21 April 2020. The review covers the following issues:

➤ **Coronavirus as force majeure**

The spread of the coronavirus is not necessarily a force majeure event. The circumstances of each case must be considered.

Lack of money, due to restrictive measures, such as a ban on conducting business or establishing a regime of self-isolation, can be recognized as a force majeure. An exemption from liability is possible if the debtor can

prove that any reasonable and diligent party to a civil transaction engaged in similar activities wouldn't have been able to avoid adverse financial consequences due to restrictive measures.

➤ **Procedural terms**

Non-working days in the period from 30 March 2020 to 30 April 2020 are not considered as grounds for postponing the day of the end of the procedural terms to the next working day. Procedural terms missed due to restrictive measures caused by the COVID-19 pandemic are to be restored (according to clauses 4 and 26 of the review).

➤ **Terms of performance of obligations and limitation of actions**

Non-working days in the period from 30 March 2020 to 30 April 2020 are generally not considered as grounds for postponing the term of performance of obligations, as well as suspending the limitation period.

➤ **Bankruptcy**

The circumstances of the occurrence of debt to creditors and the period of its occurrence do not matter when deciding whether the debtor is subject to a bankruptcy moratorium declared by the government.

We expect further clarifications on the aforementioned measures from Russian authorities.

We are actively following the development of the issues related to the COVID-19 crisis and are fully prepared to advise our clients, particularly on post-pandemic employment compliance, including the review of employment measures implemented in connection with COVID-19 crisis and, if required, the elaboration of specific employment documents.



CONTACTS:

David Lasfargue – Managing Partner
dlasfargue@jeantet.org

Vladimir Comte – Counsel
vcomte@jeantet.org

Maria Yadykina – Counsel
myadykina@jeantet.org