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The Global Employer: Russia 2021

The Global Employer

Russia Guide 2021

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**Trench Rossi Watanabe and Baker McKenzie have executed a strategic cooperation agreement for consulting on foreign law*

About the guide

This guide is intended to provide employers and human resources professionals with a comprehensive overview of the key aspects of Russian labor law. It covers the entire life cycle of the employment relationship from hiring through to termination, with information on working terms and conditions, family rights, personnel policies, workplace safety and discrimination. The guide links to our global handbooks, which include information for Russia on immigration and data privacy. The guide also contains information on the employment implications of share and asset sales.

Save where otherwise indicated, law and practice are stated in this guide as at October 2021.

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1 Overview

1.1 General overview

Russian labor legislation requires a significant amount of paperwork and formalities for certain procedures. However, it is balanced as it respects the rights and legitimate interests of both employees and employers.

Russian labor law applies equally to all levels of workers, from regular employees to senior managers, including the CEOs of Russian companies, heads of representative offices and branch offices of foreign companies registered in Russia. Russian labor law also applies to foreign nationals employed by Russian businesses and foreign businesses operating in Russia.

1.2 General legal framework

1.2.1 Sources of law

Russia has a comprehensive set of laws regulating labor relations between employers and employees. The principal piece of legislation governing labor relationships is the Labor Code of the Russian Federation ("**Labor Code**"). It sets minimum employment standards that cannot be overridden by the agreement of parties. Accordingly, any provision in an employment contract that negatively affects an employee's entitlement to these minimum employment standards is not enforceable. In addition, there is the 1996 Russian Federal Law on Professional Unions, Their Rights and Guarantees of Activity, the Russian legislation on minimum wage and labor safety, and other related laws regulate labor relations. Many aspects of labor relations are also subject to regulations of the Government of the Russian Federation and orders of the Ministry of Labor.

1.2.2 Collective agreements

A collective agreement may be concluded by employees and the employer (or by the authorized bodies representing them) in order to regulate social and labor relations in an organization. There is no obligation to enter into a collective agreement under Russian law, but as long as one duly authorized party makes an offer to conclude such an agreement, the other party may not refuse to do this. A collective agreement may provide for employees' and employer's obligations relating to the following issues:

- the forms, systems and rates of remuneration for labor
- the disbursement of benefits and compensation
- employment, retraining and the terms for dismissing employees
- working hours and leisure hours, including terms on granting leave and the duration thereof
- other issues defined by the parties

1.2.3 Court framework

There are no specific labor courts in Russia. Labor disputes are resolved by the courts of each jurisdiction. The district courts are the courts of first instance for the majority of labor cases. The courts of the constituent entities of the Russian Federation are the courts of first instance for disputes to challenge a strike.

An employee may alternatively file a claim with a district court at their registered place of residence, a district court at the place of performance of the employment contract or a district court at the employer's registration address. Any clause in an employment contract that exclusively limits the jurisdiction of the disputes to the employer's registration address infringes the guaranteed right of

access to justice and judicial protection, worsens the situation of an employee and, therefore, is not recognized by Russian courts.

1.2.4 Litigation considerations

In general, a Russian court will only consider the merits of a case if an employee has been dismissed according to the relevant mandatory procedures. Therefore, if the employer dismisses an employee but fails to follow the applicable procedure, the dismissal will be held by the court to be wrongful, even if the substantive merits of the case are valid.

An employee is entitled to take action in court against an employer if they believe they have been unjustly dismissed or the employer has committed any other violation of their rights (e.g., has not paid their salary or other sums due to the employee, or has illegally disciplined the employee).

In connection with this action, the employee has the right to demand that the employer stops such violations (including reinstatement at work), and they are also entitled to seek moral damages (compensation for harm suffered by the employee as a result of the employer's unlawful actions, which may include mental or physical suffering, etc.), as well as reasonable attorney's fees. The remedy for wrongful dismissal is reinstatement of the employee in their former position and payment of all earnings for the period of forced absence from work (i.e., from the date of dismissal until the date of reinstatement at work).

1.3 Types of working relationship

Russian labor legislation does not itself provide specific "types" of working relationship. In practice, depending on the volume of employees' rights and obligations, and the regulation of their labor relations, several groups of employees can be determined. The table below provides more information on these groups.

Types of working relationship	
Employees	An employee is generally defined as a natural person who has entered into an employment relationship with an employer. Employment relationships are based on a written employment contract. It is prohibited to conclude civil law contracts that regulate an employment relationship between an employee and an employer. Within a labor relationship, an employee performs their work under the management and control of the employer, and the employee complies with the employer's policies, provided the employer ensures the working conditions set out in the labor legislation and other acts containing labor law norms, the collective agreement, agreements, local normative acts and the employment contract. Specific rules regarding the rights and obligations of an employer and an employee, as well as the formalities of labor relationships, are provided below.
Managerial employees (the head of a company)	The Labor Code provides for matters pertinent to the labor relationship with the head of a company (the natural person who directs the organization and, in particular, performs the functions of its sole executive body in accordance with the Labor Code and other laws). In particular, the following restrictions apply: • a fixed-term employment contract is permitted • the head of a company may not hold a secondary job without the company's authorization

Types of working relationship	
	• the head of a company may be dismissed at the discretion of the company's authorized body • the employment agreement with the head of a company may provide additional grounds for termination The same rules may apply to members of the company's managing board if stipulated in the charter of a company.
Distance employees	Distance work means the performance of work by an employee outside the employer's premises. Specifically, the performance of work must be carried out via telecommunication networks, such as the internet or phone. A distance-work employment contract provides various benefits to the company; in particular, it adds more options to monitor employees and flexibility. The employment contract and any addenda to it can be concluded in electronic format by the exchange of documents between the parties. In such cases, both parties (the employee and the company) must use approved electronic digital signatures. The employer can also provide the employee with internal orders and regulations for acknowledgment in electronic format using an electronic digital signature. In certain cases, the parties are still obliged to send each other hard copy documents by registered mail with confirmation of delivery (for example, a hard copy of the employment contract previously signed in electronic format and, unless otherwise specified, notarized copies of documents submitted upon hiring requested by the employer). New types of distance work have been established: • Permanent distance work: a way of working that implies that an employee will work remotely during the term of the employment agreement. • Temporary distance work (no more than six months): a way of working that implies that an employee can temporarily work remotely and they are not obliged to come to their workplace during the given period. • Combined distance work: a way of working that implies that an employee may combine working at their workplace and distant work. Temporary distance work can be introduced: • by the agreement of the parties • unilaterally by an employer if: (1) there is a threat to life or to the normal living conditions of the entire population, or part of it (for example, during an epidemic); and (2) if state or local authorities have taken the relevant decision
Leased employees	Leased employees are those leased to third parties for a limited period to work in the interest, and under the supervision, of a private individual or a legal entity that is not the employer of such worker (i.e., a receiving company under a contract on provision of personnel). Russian legislation substantially restricts the provision of personnel in Russia. The Labor Code prohibits "agency work," i.e., work performed by an employee for an employer under the management and

Types of working relationship	
	control of an individual or a legal entity that is not the direct employer of the employee. According to the Labor Code, employees may be sent to another individual or legal entity only under a contract for the provision of staff. Significant limitations apply to the provision of workers on the basis of a contract for the provision of staff, or a "staff leasing" contract. In particular, staff leasing can only be carried out by the following entities: • private employment agencies • other legal entities in exceptional cases provided by law (if employees, with their consent, are temporarily sent to a legal entity that is affiliated with the sending entity, e.g., between legal entities that are party to a shareholders' agreement) The Labor Code contains some provisions that are aimed at protecting the labor rights of leased employees. In particular, the law states that: • the pay of the leased employees must not be worse than that of workers of the receiving company performing the same functions • the staff provider must ensure that the work performed by employees at the receiving company corresponds to their job description and that the host respects labor law standards • the receiving company bears subsidiary liability for the obligations of the staff provider, including payroll obligations The Labor Code also specifies a number of cases where the use of a staff leasing agreement is not allowed. These include the replacement of employees who are on strike, who perform work during work stoppages or during the operation of a reduced work schedule to preserve jobs from mass layoffs, and in certain other instances.

Besides the above, there are other types of working relationships, such as secondary job, seasonal employees, sportspersons and trainers.

1.4 On the horizon

There is a draft bill submitted to the State Duma under which employees can sign any employment documents electronically. Currently, the Labor Code provides that employers can only operate an electronic document flow using electronic signatures in employment relationships with distance employees. The bill states that electronic documents will have the same legal status as those in written form and will be signed electronically. The bill has not yet been adopted.

In addition, the State Duma is considering a draft bill which would establish additional guarantees for employees with children who are in the field of night work or overtime work as well as the procedure for sending such employees on a business trip. The bill has not yet been adopted.

2 Hiring employees

2.1 Key hiring considerations

Pursuant to the Labor Code, employers in Russia need to document the hiring process properly. They are required to issue an internal order (decree) each time an employee is hired or transferred to a new job. The order on hiring must be issued and be given to the employee for countersigning no later than three days after the employee actually starts work. Employers must also adhere to personal data protection legislation when recruiting staff (i.e., obtain applicants' and employees' consent for processing their personal data).

Employers are responsible for keeping their employees' labor books and making all records on time. A labor book is a document that contains information about a person's employment history. As of 2020, the labor book may be kept in both paper and electronic form. The employer must make a note of employment in the labor book when the employment lasts for over five days. The parties to an employment contract on distance work may agree not to make any entries in the employee's labor book. Discrimination issues are also important when hiring staff (please refer to **14** below). For example, an employer is prohibited from refusing work to an employee on the basis that the employee is pregnant or has a child.

If an individual is not hired, they have the right to request the company to provide them with written reasons as to why they were not hired. Refusal to enter into an employment contract may be challenged in court.

2.2 Avoiding the pitfalls

The Labor Code provides a list of documents that an employee must generally provide to an employer, in particular:

- passport
- labor book or information on employment activity
- a document confirming registration in the system of individual (personalized) accounting, including in the form of an electronic document
- military registration documents — for persons liable for military service or draft to military service
- document proving education and qualification or availability of special knowledge — if hired for work requiring special knowledge or training
- reference note in respect of the presence (or absence) of a previous conviction or of criminal prosecution — for some positions (persons who have a conviction or who were/are subject to criminal prosecution may not be admitted to particular job positions, e.g., teaching employees, chief accountants in some companies, civil servants and heads of credit organizations)
- other documents required by law

It is prohibited for an employer to ask an employee to provide any documents except those specified in the legislation. Upon hiring, but prior to execution of the employment contract, the employer is obliged to familiarize the employee (against their signature) with all of the employer's effective internal policies, rules and regulations.

2.3 Procedural steps and key documents in recruitment

2.3.1 Identifying the vacancy

When identifying a vacancy, the employer should find out if a mandatory "professional standard" for the particular vacancy is applicable under the Labor Code or other federal law.

"Professional standards" are requirements for the level of qualifications an employee must possess for specific professional activities. Each of them sets out the required qualifications and work experience, skills and knowledge for an employee who holds a particular position, as well as stating the tasks that may be carried out by such employee.

According to the provisions of the Labor Code, professional standards are only mandatory for employers in cases where:

- under the Labor Code or other federal laws, employees carrying out particular work in particular job positions are entitled to compensation or are subject to certain limitations (for instance, for employees working in harmful or hazardous conditions)
- the Labor Code or other federal laws establish requirements on the qualifications necessary for the employee to carry out a particular role (in which case, professional standards will be obligatory only as regards requirements for employee qualifications)

In all other cases, professional standards are recommended and are not binding for the employer.

2.3.2 Preparing a job description and specification for the position

A specification for a position may not contain any requirements that are not connected with the professional skills of the individual concerned. Requirements for a particular gender, race, nationality, language, social origin, age, property status, place of residence, religious beliefs and affiliations with social associations (e.g., political parties, trade unions and charity organizations) are deemed to be discriminatory.

If a mandatory professional standard is adopted for a particular position, the job description and specification for the position must comply with it in terms of the requirements for the employee's qualifications.

2.3.3 Advertising the job

Other than the general requirement of non-discrimination, Russian legislation does not set any requirements for job advertisements. Generally, when offering vacant positions (if any) an employer shall indicate the main terms of employment (e.g., job title, work place, main employment duties), as well as the requirements applicable to these positions. As of 1 January 2022, companies employing more than 25 employees will be obliged to publish vacancies on a special state portal "Work in Russia" (*Работа в России*).

2.3.4 Shortlisting and interviewing

The selection process may involve a number of stages depending on the vacancy and the employer's size and administrative resources. These stages could involve shortlisting, selection tests, assessments and interviews. Russian labor legislation does not particularly regulate these processes.

2.3.5 Making an offer of employment, subject to conditions where appropriate

Russian labor legislation does not provide for the procedure of making an offer of employment. Although an employer may provide an employee with a written offer, this document would not have

binding effect as all terms and conditions of employment must be set out in an employment agreement.

If there are qualification requirements for certain positions, these requirements may be provided as conditions in an offer letter.

2.3.6 Involvement of trade unions or works council

Russian labor legislation does not provide for the involvement of trade unions in the recruitment process.

Works councils are not a recognized concept in Russia. However, employees, on a voluntary basis, may form an advisory body — an industrial council — to prepare proposals regarding the improvement of industrial activities, individual manufacturing processes, etc. The scope of an industrial council's authority is established by a local regulatory act of an employer and cannot cover issues within the competence of the company's managerial bodies and trade unions. In fact, industrial councils are not widely disseminated in Russia.

3 Carrying out pre-hire checks

3.1 Background checks

The law does not require pre-hire background checks. However, in practice, employers often conduct these. Pursuant to applicable legislation, such checks may be carried out only with the candidate's prior written consent.

It is not permissible to conduct some types of checks (e.g., criminal records checks) without the candidate's direct involvement. For instance, information on criminal records will be provided only to the individual with respect to whom this information is sought, or at the request of government law enforcement agencies.

Further, the employer should not make an offer of employment, enter into an employment agreement or admit the candidate to work before the background check is completed. Otherwise, even if the results of the background check are not satisfactory, the company will not be able to dismiss the employee on these grounds. In addition, as a general rule, the employer cannot refuse to employ a candidate merely due to unsatisfactory background check results.

3.2 Reference checks

Like background checks, reference checks are not required by law, but are still widely used by employers. Pursuant to applicable legislation, such checks may be carried out only with the candidate's prior written consent. Due to Russian personal data protection legislation, former employers usually cannot provide data regarding former employees, unless the applicant has given their prior written consent for obtaining references from the former employer and providing such to the potential employer.

3.3 Medical checks

Russian labor legislation provides for mandatory medical checks prior to entering into an employment contract and periodic medical checks for certain categories of employees. The list of such categories is approved by the order of the Ministry of Health. It includes minor employees, employees engaged in dangerous or harmful activities, drivers, employees engaged in teaching, working in the food industry, public catering, trading establishments, etc.

4 Immigration

Please refer to our Handbook – The Global Employer: Focus on Global Immigration and Mobility, which is accessible HERE, for information about the immigration system in Russia.

5 The employment contract

5.1 Form of the employment contract

A written employment contract in Russian (or in bilingual format), setting out the basic terms of the employment relationship, must be entered into by each employee working in Russia. The Labor Code provides all employees with minimum guarantees, which cannot be superseded by any other agreements between the employer and the employee. Accordingly, any provision in an employment contract that diminishes an employee's position from that set out in such guarantees will be invalid.

The Labor Code provides the list of terms and conditions that must be included in an employment contract (including the title of the job position of the employee in accordance with the staffing schedule; conditions of work; compensation and benefits; conditions of remuneration and leave; etc.).

Generally, the employer cannot make unilateral changes to the terms of the employee's employment contract, unless there are organizational or technological changes in the conditions of work. Organizational or technological changes in the conditions of work must be justified and supported by the relevant internal documentation of the employer. In such cases, the employer must notify the employee in writing two months in advance before unilaterally implementing the change.

Importantly, a change in the employee's job cannot be unilaterally made by the employer, but requires the agreement of both parties.

If there are no organizational or technological changes, the amendments to the terms of an employment contract may be introduced only by agreement of both parties.

5.2 Types of employment contract

Employment contracts in Russia may be classified based on different grounds, as provided in the table below.

Types of employment contract	
Term of contract	Generally, an employment contract must be concluded for an indefinite period. A definite-term contract (also known as a fixed-term contract) can be entered into but cannot be enforced for a term longer than five years, and it may only be executed under the circumstances set out in the Labor Code. For instance, to temporarily replace an absent employee who is legally entitled to retain the position during their absence; or for the performance of temporary (up to two months) work and seasonal work, when due to natural conditions the work can only be performed during a certain period (season). Such situations usually occur when the nature or conditions of work make it impossible for the parties to enter into an indefinite-term contract. Fixed-term employment contracts with foreign workers similarly may only be executed in the circumstances specifically provided for in the Labor Code.

Types of employment contract	
Length of working time	The normal length of working time may not exceed 40 hours per week. Reduced working time must be established for the following categories of employees: • for employees under 16: up to 24 hours a week • for employees from 16 to 18: up to 35 hours a week • for employees who are significantly disabled (Disability Groups I or II, according to the Russian system of determining the severity of an individual's disability): up to 35 hours a week • for employees whose working conditions have been classified as harmful (Degree 3 or 4, according to the Russian system of determining workplace safety levels) or hazardous, according to the results of a special assessment of working conditions: not more than 36 hours per week • for female employees working in the Far North regions or regions with abnormal climatic conditions (e.g., Far East, some regions of Siberia): 36 hours per week • for female employees working in rural zones: 36 hours per week (until a shorter working week is provided by other legislative acts); female employees working in rural zones are also entitled to one additional unpaid day off per month at their written request A part-time working day may be established by agreement between an employer and an employee, except for cases when the employer introduces such part-time work to prevent mass redundancies. The employer is obliged to set a part-time working day or working week at the request of a pregnant woman, a parent (guardian) with a child of up to 14 years of age (or disabled child of up to 18 years of age), or a person taking care of a sick family member.
Primary and secondary employment	Pursuant to the labor law, an individual can have only one primary job, which is generally full time. At the same time, an individual may have several secondary jobs with the same or different employer. In this case, under the requirements of the Labor Code, the employee shall not work more than four hours per day at the place of their secondary job, provided it is not a day off at the place of their primary job.
The means of interaction between an employer and an employee	Regular employees and distance employees — please refer to **1.3** for further information.

5.3 Language requirements

Russian legislation specifies that the employment contract and all other employment-related documents (i.e., employer's local policies, all HR orders) must be in Russian or in bilingual format.

6 Working terms and conditions

6.1 Trial periods

An employer has the right to establish a maximum three-month probationary period for a newly hired employee employed for more than six months. If an employment contract is concluded for a period of two to six months, the probationary period may not exceed two weeks. The exception to this rule is a six-month probationary period for employees hired for executive positions (e.g., the CEO of a company and their deputies, chief accountant and their deputies, head of a branch/representative office or any other separate divisions of a company).

It is not possible to extend the probation period, or to establish a new probation period, in the event an employee is transferred to another position within the company. Importantly, the probation period does not include any period during which the employee is temporarily disabled, as well as other times during which they are actually absent from work.

The probationary period must be set out in the employment contract as well as in the order on hiring. If during the probationary period the employer determines that the employee does not meet the criteria established for the position for which they were hired, the employer can dismiss the employee without a severance payment and with only three days' written notice. The above-mentioned notice must state the reasons why the employee failed to pass the probationary period. However, the employee is entitled to resign during the probationary period without stating any reason with three days' written notice to the employer.

Under the Labor Code, a probationary period cannot be established for certain categories of employees. For instance, pregnant women and women with children up to 1.5 years old; persons under 18; persons invited to a specific job on transfer from another employer by agreement between employers, etc.

6.2 Working time

Employers are required to keep a record of each employee's working time, including any overtime. The regular working week is 40 hours.

The length of continuous weekly rest time shall not be less than 42 hours. As a rule, employees may only be required to work on a day off or on a public holiday under extraordinary circumstances, as specified by the Labor Code, and upon the employees' prior written consent. As a more general rule, employees should receive payment at not less than twice the regular rate for any work performed on a day off or on a public holiday, or receive another day off instead. Certain limitations regarding working on days off and on public holidays apply to protected categories of employees.

A reduced working time must be established for certain categories of employees — see **5.2**.

6.3 Wages and salary

Wages must not be lower than the minimum monthly wage established by the applicable Russian legislation. The minimum monthly wage is subject to frequent indexation. As of 1 January 2021, the statutory minimum monthly wage at the federal level is RUB 12,792 per month (approximately USD 175). In addition, the minimum monthly wage can be locally set at a higher level. For instance, in Moscow the minimum monthly wage, from 1 January 2021, is set by the tripartite agreement between the Moscow government, Moscow associations of employers and Moscow associations of trade unions at RUB 20,589 (approximately USD 282).

Salary payments must be made to employees at least once every half-month. Employers are obligated to pay salary and other employment-related payments on a date set by the internal labor regulations or by the individual employment contract. A particular salary payment date is to be

established no later than 15 calendar days after the final day of the period for which it is accrued. For delaying the payment of salary and other employment-related payments, an employer is obligated to pay compensation (i.e., interest) of at least one-one hundred and fiftieth (1/150) of the Russian Central Bank's key interest rate on the unpaid amount for each day of delay, starting from the day after the established payment date and up to the date of actual settlement (inclusive). In addition, employees have the right to stop working, with prior written notice to their employer, if their employer has delayed payment of their salary for more than 15 days.

Employees in Russia must be compensated in the currency of the Russian Federation (Russian rubles). The state authorities generally consider employment-related payments in foreign currency, both in cash and by bank transfer, as a violation of the law.

6.4 Making deductions

Deductions from an employee's salary can be made for payment of their debt only in cases stipulated by the Labor Code (for instance, for reimbursement of an unearned advance issued to an employee against wages; for the repayment of an unspent and not promptly refunded advance issued in connection with official business travel or transfer to other work in another location, as well as in other instances; for the refund of sums overpaid to an employee due to accounting errors; etc.).

The overall amount deducted from each payment of salary may not exceed 20% of the salary due to the employee, or 50% in instances stipulated by federal laws. These limitations do not extend to deductions from salaries for: (i) penalties issued under the Russian Criminal Code; (ii) the collection of child support for minor children; (iii) restitution for an injury caused to the health of another person; (iv) restitution for injury to persons who have suffered a loss in connection with the death of a provider; or (v) restitution for a loss caused by a crime. The amount of the withholdings from wages in these instances may not exceed 70%.

6.5 Overtime

Generally, any time worked over 40 hours is classified as overtime and may only be requested by the employers in extraordinary circumstances, and upon an employee's prior written consent. This rule is not applicable for employees with an open-ended working day (i.e., a special working regime where an employee may be occasionally engaged to perform their job duties beyond the normal working hours under the employer's instructions).

The Labor Code limits the total amount of overtime for each employee to 120 hours a year, and the employee may not be required to work more than four hours of overtime in two consecutive days. If an employee has cumulative time recording, the overtime hours will be only those hours that are beyond the normal working hours for the respective accounting period (i.e., they are not accounted on a daily basis).

Overtime must be paid at the rate of 150% of the regular hourly rate for the first two hours of overtime worked during one day and at the rate of 200% of the regular hourly rate thereafter. The employee can make a written request to the employer to compensate overtime work by granting additional time off instead of the payment. Such time off shall not be less than the overtime worked. It must be noted that certain limitations regarding overtime work apply to protected categories of employees, including employees under the age of 18, pregnant women, women with children under the age of 3, disabled employees and certain other categories as defined by federal laws.

6.6 Bonus and commission

An employer may encourage employees' good performance by paying them bonuses or commissions.

A bonus may be discretionary, which means that the bonus is not guaranteed by the employer and, therefore, may not be paid even if the employee meets all the bonus criteria.

A bonus forms part of the salary, and should be established by collective agreements, the employer's internal regulations or employment contracts. If there is a trade union in a company representing the employees, a bonus payment policy should be adopted taking into account its opinion according to the procedure set out in the Labor Code.

6.7 Benefits in kind

The employer may provide employees with benefits in kind, such as company cars, medical and disability insurance and life insurance, lunch allowance, etc. Such benefits are not mandatory, but if granted, they may be subject to specific rules.

Equity incentive plans

The Labor Code does not provide for equity incentive plans. Although employees in Russia may participate in such plans, these are usually structured under foreign law. Equity may not form part of an employee's salary.

6.8 Pensions

By law, employees participate in the state old-age insurance scheme operated by the Pension Fund of the Russian Federation. The statutory pension plan stipulates that defined contributions to the State Pension Fund of the Russian Federation must be made at the employer's expense (and on top of remuneration to be paid to the employees) at the following rates:

- 22% on the total amount of remuneration up to RUB 1.465 million (approximately USD 20,070) per year
- 10% on any remuneration payments exceeding the above amount

In addition, some companies establish voluntary pension insurance plans for their employees. Moreover, the employees may require the employer to convert part of their salary into contributions toward a private pension plan.

6.9 Annual leave

Employees in Russia are entitled to an annual paid vacation of at least 28 calendar days per annum. Generally, the employee is entitled to use their vacation time (in full) once they have worked for an employer for at least six months. Upon the agreement between an employer and an employee, an employee may be provided with vacation before the expiration of the six-month period of work for an employer. The Labor Code requires that the dates of the annual vacation of each employee should be indicated in the schedule of vacations for the calendar year. Employees who have three or more children under the age of 18 are provided with annual paid leave at a time convenient for them (until the youngest child reaches the age of 14), which should be reflected in the vacation schedule. The employer must approve this schedule by mid-December of the preceding year. The Labor Code further requires that employers notify their employees in writing at least two weeks before the vacation is to start. An employee's vacation allowance should be paid to the employee at least three days before the vacation is due to start.

There are 14 official public holidays in Russia:

- 1-6 and 8 January — New Year's Holiday
- 7 January — Orthodox Christmas Day
- 23 February — Defenders of the Motherland Day
- 8 March — International Women's Day
- 1 May — Spring and Labor Day
- 9 May — Victory Day
- 12 June — Russia Day
- 4 November — National Unity Day

6.10 Sick leave and pay

In Russia, the system of sick leave only requires an employee to submit a medical certificate (a sick leave sheet) after their recovery. In general, employees cannot be dismissed at the initiative of an employer (except for cases of liquidation of a company or termination of activities by an individual entrepreneur) when they are on sick leave and are entitled to receive sick leave compensation. Sick leave compensation is covered by the Russian State Social Insurance Fund (except for the first three days of each temporary sickness period, which should be compensated by an employer). This compensation is funded by the employer's contributions that are retained as a percentage of its employees' salaries in the form of contributions to the Social Insurance Fund.

Under current rules, sick leave compensation must be paid to the employee in the event of their illness or injury (labor-related or other), and in cases where the employee is looking after a sick family member, as well as in some other instances. Currently, the amount of compensation paid to the employee on such sick leave is set at between 60% and 100% of the employee's average salary, depending on the employee's uninterrupted work history and other circumstances. In cases of a labor-related injury or occupational disease, the amount of sick leave compensation is 100% of the employee's earnings. However, in any event, sick leave compensation cannot exceed the maximum limit established by legislation. In 2021, the maximum amount of sick leave compensation (regardless of the average earnings) is RUB 2,434.25 (approximately USD 33) per calendar day.

6.11 Taxes and social security

Employees must pay personal income tax, which is withheld from their earnings by an employer. The tax rate is 13% for residents and 30% for nonresidents (except for highly qualified foreign specialists, patent owners, etc.). The personal income tax is raised up to 15% for the portion of income exceeding RUB 5 million per year.

Employers must also pay contributions to three extra-budgetary insurance funds as follows:

- Pension Fund (please refer to **6.8**)
- Mandatory Medical Insurance — 5.1% of an employee's earnings
- Mandatory Social Insurance — 2.9% (with exceptions) of an employee's earnings (within the amount of RUB 966,000 (approximately USD 13,234) per year)

7 Family rights

7.1 Time off for antenatal care

Under the Labor Code, a pregnant woman retains her average salary during a mandatory medical examination.

At the request of a pregnant woman, the employer is obliged to set a part-time working day or working week for her.

For a description of other guarantees, please refer to **7.2**.

7.2 Maternity leave and pay

The duration of maternity leave is 70 days (84 days in case of a multiple pregnancy) prior to the delivery and 70 days after the delivery (86 days in case of complications and 110 days in case of a multiple pregnancy). Maternity leave is provided to a female employee upon her request supported by a medical certificate containing information on the duration of the leave. The maximum daily amount of statutory maternity leave allowance in 2021 is limited to RUB 2,434.25 (approximately USD 33). This allowance is to be paid by the employer simultaneously with granting maternity leave to the employee and is further offset against contributions to the Social Insurance Fund.

7.3 Paternity leave and pay

Russian legislation does not provide for paternity leave but a child's father may use parental leave (please refer to **7.4**). Employees are also entitled to five days' unpaid leave (please refer to **7.6**).

7.4 Parental leave and pay

Following the maternity leave period, the employee is entitled to take a paid period of childcare leave until the child reaches the age of three. The child's father, grandmother, grandfather, or another relative who is actually taking care of the child, can take parental leave, provided the mother of the child has returned to work.

The maximum monthly amount of statutory childcare leave allowance is RUB 29,600.48 (approximately USD 405) and is to be paid until the child is 1.5 years old. In addition, there is a monthly payment for the first and second child. As of 2020, it is paid until the child is 3 years old if the average per capita monthly income of the family does not exceed two regional minimum monthly wages within the preceding 12 months.

Also during this leave, the employee may choose to work part time, preserving their entitlement to the childcare leave state benefit, unless the remaining daily childcare time is too short to take care of the child. During the entire period of parental leave, the employee retains the right to return to their job, and the full leave period is included when calculating the employee's length of service.

7.5 Adoption leave and pay

An employee who has adopted a child is entitled to take adoption leave. This leave lasts until the child is 70 days old or, in case of adoption of two or more children, 110 days old. The maximum amount of adoption leave compensation is the same as the sick leave compensation (RUB 2,434.25 (approximately USD 33) per calendar day). If both spouses adopt the child, they can choose who will take the adoption leave. If a woman adopts a child, she may take maternity leave instead of adoption leave (please refer to **7.3**). Parental leave may also be provided to an employee who has adopted a child.

7.6 Other family rights

Employees are entitled to five days' unpaid time off in case of childbirth, marriage or death of a close relative.

Parents working in the Far North regions or equivalent regions should be provided with one additional unpaid day off per month at their written request to care for a child.

One parent of a disabled child (children) shall be provided with four additional paid days off per month upon their written request. Each additional day off is paid at the same rate as the employee's average daily rate of pay.

8 Other types of leave

8.1 Time off for dependents

An employee who has two or more children under 14, one disabled child under 18, or a single parent who has one child under 14, may be entitled to take additional unpaid annual leave of up to 14 days. Parents working in the Far North regions or equivalent regions should be provided with one additional unpaid day off per month at their written request to care for a child.

Please also refer to **7.6**.

8.2 Time off for training

The Labor Code sets out that employees who are studying for a graduate, specialist or post-graduate program for the first time are entitled to additional paid leave as follows:

- for the examination period — 40 to 50 days
- for the final examination — up to four months

An employer is also obliged to provide unpaid leave for certain categories of studying employees in cases set out by the Labor Code (i.e., if an employee is admitted to pass an entrance examination).

8.3 Public duty leave

An employer is obliged to release an employee from work with the retention of their job (position) for the period of the performance of state or public duties in instances when, in accordance with the Labor Code and other federal laws, the duties must be performed during a work period (e.g., being a member of a jury, witness, member of a referendum commission).

8.4 Leave to undergo health checks

When undergoing health checks, employees are entitled to one paid day off once every three years. Pre-pension and pension age employees are entitled to two days' annual paid leave to undergo health checks. In addition, as of 11 August 2020, employees aged 40 years and above are entitled to one additional paid day off to undergo health checks. To use these benefits, employees need to agree on the dates of leave with their employers.

9 Termination provisions and restrictions

9.1 Notice periods

Please refer to **15.5**.

9.2 Payment in lieu of notice

Subject to the written consent of an employee, payment in lieu of notice can be used in cases of termination due to staff redundancy/liquidation. In this case, an employee is entitled to compensation of their average monthly compensation, calculated in proportion to the time remaining before the expiry of the notice period.

9.3 Garden leave

Garden leave is not a recognized concept in Russia. However, there are options, although slightly more formal in terms of implementation, that are effectively the same, i.e., an employer may provide an employee with additional paid leave, provided the employee consents to such leave and the process is properly documented.

9.4 Intellectual property

Russian labor law is silent on the subject of employment-related inventions, utility models and industrial designs. Part IV of the Russian Federation Civil Code ("**Civil Code**") establishes the general legal framework for employees' inventions, utility models and industrial designs.

The Civil Code provides special rules for so-called "employment-related" inventions, utility models and industrial designs. Employment-related inventions, utility models and industrial designs are those created by an employee in connection with the performance of their work duties or a specific assignment given by the employer. The exclusive right to a patent and the right to obtain a patent for employment-related inventions, utility models and industrial designs belong to the employer, unless the employment contract or other agreement between the employer and the employee expressly provides that the right to obtain a patent shall belong to the employee.

Inventions, utility models and industrial designs created by an employee outside of their work duties or in the absence of a specific employer's assignment are not qualified as "employment-related" and are owned and retained by the employee. However, the employer is entitled to receive a royalty-free license, or reimbursement of its expenses, if the employee uses any equipment, funds or other facilities of the employer in order to create such invention, utility model or industrial design.

The employee inventor is regarded as the author of the invention. The right to be recognized as the author of the invention is nontransferable and cannot be waived.

Employees are obliged to inform their employers in writing about any "employment-related" results of intellectual activity that may be subject to patent protection. Once an employee informs their employer about the invention created, the employer will perform one of the following actions within four months of such notification:

- file a patent application
- assign the right to obtain a patent to a third party
- notify the employee that the created invention shall be kept secret (it is advisable to do so in writing)

If the employer fails to perform one of the above actions within four months after the employee notifies the employer about the creation of the invention, the right to such invention (including the right to obtain patent protection) reverts to the employee, and the employer loses the exclusive right in such intellectual property.

Employee inventors have a statutory right to receive remuneration once the employer receives a patent, assigns the right to obtain a patent to a third party, notifies the employee that the created

result shall be kept secret, or fails to obtain patent protection for the invention due to reasons attributable to the employer.

The Russian government has adopted rules on the calculation of remuneration payable to employee inventors and on payment procedures for such remuneration. These rules entitle the employee inventor to receive a payment equal to 30% of their average monthly salary (for the 12 months preceding the creation) for the creation of an invention, and 20% of their average monthly salary (for the 12 months preceding the creation) for the creation of a utility model or an industrial design. In addition, the employee inventor is entitled to receive an average monthly salary for each 12-month period during which the invention, utility model or industrial design is used by the employer.

Employee inventors are also entitled to 10% of the licensing fees the employer receives under the patent license, and 15% of the remuneration received by the employer as payment for the assignment of a patent.

9.5 Confidential information

The Civil Code recognizes and protects exclusive rights in two distinct types of knowhow: (i) knowhow protected under a trade secrets regime; and (ii) knowhow protected without a trade secrets regime, provided its owner has taken reasonable measures to maintain the confidentiality of the information.

Confidentiality covenants must be included in the employment contract if the employer has established a trade secrets regime and if the employee needs to access trade secrets in order to perform their job duties and the employer consents to such access.

In the absence of a trade secrets regime, confidentiality covenants may either be included in the employment contract or concluded as separate civil law agreements.

Confidentiality covenants must include a list of confidential information as well as specific employee obligations with regard to handling such information and liability for its disclosure or misappropriation.

Confidentiality provisions may remain in force even after the termination of employment, provided they were agreed upon in writing by the parties (e.g., in the employment contract, standalone nondisclosure agreement or employment termination agreement).

9.6 Post-termination restrictions

Generally, post-termination restrictions are non-enforceable due to the strong freedom of labor concept envisaged in the Constitution of the Russian Federation. According to the current interpretation of this concept, an employee may not be restricted in their choice of employer, both within a period of employment and upon termination of employment. The only exception is the company's CEO, who is prohibited from working for other companies within the period of employment unless it is permitted by the company's authorized body.

9.7 Retirement

From 2028, the retirement age will be 65 for men and 60 for women. The changes to the retirement age in Russia are being introduced gradually, starting from 1 January 2019. Employees with a long employment history (42 years for men and 37 years for women) may retire two years early if they have reached the ages of 60 and 55 respectively. An earlier retirement age is established for some categories of employees (i.e., employees working in the Far North regions and employees in certain professions working in harmful working conditions).

An employer may not terminate the employment contract solely because an employee has reached retirement age.

10 Managing employees

10.1 The role of personnel policies

Employers are required by law to adopt internal work regulations, as well as a number of other mandatory policies, including a personal data protection policy, work safety rules and instructions and remuneration payment regulations.

Certain additional policies and procedures are recommended, such as a trade secrets policy, business travel policy, etc.

Upon hiring, but prior to execution of the employment contract, the employer is obliged to familiarize the employee (against their signature) with all of the employer's effective internal policies, rules and regulations.

Russian laws provide a specific procedure for adoption of internal policies by the employer (e.g., having the policy approved by an internal staff order issued by the head of the Russian subsidiary). Some policies (i.e., internal work regulations, salary and bonus payment regulations) may be adopted, subject to approval of a trade union (if any).

Once employees have acknowledged the employer's policies, they must comply with them and, in case of any breach, may be subject to a disciplinary sanction. A disciplinary sanction may be imposed within six months of an offense being committed (two years in the case of an audit of the financial activity of the employer). Special rules apply for imposing disciplinary sanctions on employees for violating prohibitions or restrictions, or nonfulfillment of obligations established by legislation on combating corruption. Disciplinary liability may be imposed on such employees within three years of the date on which the violation was committed.

10.2 The essentials of an employee handbook

Under Russian labor legislation, there are no requirements for employers to adopt an employee handbook. However, there is a list of internal policies that must be adopted by each employer (see **10.1**). Such local policies regulate all essential aspects of the employment relationship in a company (i.e., terms of salary payment, working time regime, employee benefits).

10.3 Codes of business conduct and ethics

An employer is not obliged to adopt any codes of business conduct and ethics, but may do so at its own discretion. Please also refer to **10.1**.

11 Data privacy and employee monitoring

Please refer to our Global Privacy Handbook, which is accessible HERE, for information on data privacy and monitoring requirements in Russia.

12 Workplace safety

12.1 Overview

Employers have a stringent statutory obligation to provide a safe working environment. Employers also have a statutory obligation to arrange a special assessment of labor conditions to identify harmful and dangerous factors in the environment and labor process, and assess their impact on employees.

12.2 Main obligations

Employers' principal obligations regarding labor safety are as follows:

- Carry out a special assessment of labor conditions upon the establishment of a new working place and at least every five years.
- Provide benefits, guarantees and compensation to employees working in harmful or dangerous conditions.
- Organize medical examinations of certain categories of employees.
- Carry out briefings on labor safety with employees.
- In the event of an industrial accident, notify the relevant authorities and conduct an industrial accident investigation.
- Ensure compliance with the labor safety requirements as follows:
    - Employers with more than 50 employees must establish a labor safety department or introduce a separate position of labor safety specialist possessing the appropriate qualifications or work experience in this field.
    - Employers with less than 50 employees may decide at their own discretion whether to set up a labor safety department or appoint a labor safety specialist, taking into account the nature of the company's production activity.

12.3 Claims, compensation and remedies

Violating state regulations on labor safety is considered an administrative offense. The severity of the punishment depends on the type of violation.

The maximum fine for aggravated violation of labor safety requirements is RUB 5,000 (USD 68) for an individual entrepreneur or company official, and RUB 80,000 (USD 1,096) for an entity.

An employer's breach of the procedure to carry out a special assessment of working conditions at workplaces merits a warning or the imposition of an administrative fine on officials of RUB 5,000 to RUB 10,000 (approximately USD 68 to USD 135); and on a company, a fine of RUB 60,000 to RUB 80,000 (approximately USD 810 to USD 1,096).

Admittance of an employee to execute employment duties without undergoing training, testing of work safety knowledge and a compulsory medical examination warrants an administrative fine on officials of RUB 15,000 to RUB 25,000 (approximately USD 205 to USD 342); and on a legal entity, a fine of RUB 110,000 to RUB 130,000 (approximately USD 1,505 to USD 1,779).

Failure of an employer to provide employees with individual protection facilities is punishable by an administrative fine on officials of RUB 20,000 to RUB 30,000 (approximately USD 273 to USD 410); and on a legal entity, a fine of RUB 130,000 to RUB 150,000 (approximately USD 1,779 to USD 2,052).

Repeated violations of labor safety requirements warrants an administrative fine on officials of RUB 30,000 to RUB 40,000 (approximately USD 410 to USD 547) or disqualification from holding executive or managerial positions for a term of one to three years; and on a legal entity, a fine of RUB 100,000 to RUB 200,000 (approximately USD 1,368 to USD 2,738) or the administrative suspension of activities for a term of up to 90 days.

The violation of state regulations on labor protection is considered a crime if it has led to injury or death. The maximum punishment for this crime (if it is not aggravated) is five years' imprisonment.

In the event of an employee's injury, occupational illness or death because of a labor accident, an employer must pay to the employee (or the employee's family) their lost earnings, medical, social, professional rehabilitation expenses, or funeral costs.

13 Employee representation, trade unions and works councils

Information about working with trade unions and works councils can be found throughout this guide. For more information on this subject in Russia, please contact us. See Key contacts for contact details.

14 Discrimination

14.1 Who is protected?

The Labor Code and the Russian Constitution contain provisions specifically prohibiting discrimination.

The anti-discrimination requirements apply to employees and candidates for vacant positions in relation to their recruitment, promotion, salary, redundancy and dismissal.

14.2 Types of discrimination

Discrimination is prohibited on the grounds of gender, race, nationality, age, language, social origin, property status, place of residence, religious beliefs, affiliations with social associations (e.g., charity organizations, political parties, trade unions) and other circumstances not connected with the professional qualities of workers. However, there is an exception that permits preferential treatment for certain classes of individuals who are viewed by the state as requiring additional protection or to whom an affirmative action program applies.

There is no specific legislation that prohibits sexual harassment at work, but the Criminal Code of the Russian Federation provides that compelling an individual to engage in sexual relations by using blackmail, the threat of destruction, damage or withdrawal of property, or the withdrawal of any other material right upon which the victim depends, is a crime.

The employer's anti-discrimination obligations are also set out in particular provisions of the Labor Code; for example, the employer must treat part-time employees and employees employed for a limited period equally with full-time employees and employees employed for an indefinite period.

14.3 Special cases

14.3.1 Disability discrimination

The Federal Law "On Social Protection of the Disabled Persons" prohibits any differentiation, expulsion or restriction based on disability and aimed at the denial of human rights.

14.3.2 Equal pay

Under the Labor Code, the salary of an employee should be determined taking into account the quality and complexity of work and professional qualifications of the employee. While there is a general principle of "equal pay for equal work," provided any difference in compensation can be justified based on a reasonable factor (e.g., different job position, level of seniority or performance), the risks of a successful claim on this basis would be minimal to none.

However, the State Labor Inspectorate may take a very formalistic approach and may consider the payment of different salaries to employees occupying the same job position to be a violation of labor law. Labor inspectors do not conduct an in-depth review of the situation and take decisions based on the job titles of employees indicated in their employment agreements and in the staffing schedule of the employer.

14.4 Exclusions

14.4.1 Employment of women

The law prohibits hiring women to perform certain kinds of arduous work, the list of which is set out by the Ministry of Labor and Social Protection of the Russian Federation (for instance, work involving heavy lifting). Moreover, pregnant women cannot be asked to work overtime, at night (from 10 pm until 6 am) or on days off, or be sent on business trips. However, women who have children under 3 years old can be asked to work overtime, on days off or be sent on business trips, but only if they consent (in writing) and such work is not against medical advice for health reasons.

14.4.2 Occupational requirements

For certain professions (for instance, some involving dangerous work) there are particular requirements and limitations. These may also be established by industrial agreements.

14.4.3 Exceptions relating to age

It is statutorily prohibited to hire persons under the age of 18 to work in harmful or dangerous conditions, for underground work, or for work that may cause harm to their health or moral development. Moreover, employees under the age of 18 cannot be asked to work overtime, work at night (from 10 pm until 6 am), on days off, or be sent on business trips unless they are creative employees working in mass media, the film industry or theaters, and other employees participating in the creation or performance of works of art, as well as athletes.

14.5 Employee claims, compensation and remedies

If an employee believes that they were discriminated against, they may file a claim with a court to restore violated rights, reimburse material damage and compensate for moral harm. However, case law on discrimination at work is not extensive in Russia.

14.6 Potential employer liability for employment discrimination

Discrimination is classified as an administrative and criminal offense in Russia.

Including discriminatory restrictions in job advertisements (e.g., requirements to a candidate's age or gender) is punishable by an administrative fine between RUB 3,000 and RUB 5,000 (approximately USD 41 to USD 68) on an employer's officials, and an administrative fine between RUB 10,000 and RUB 15,000 (approximately USD 136 to USD 205) on a company.

Moreover, discrimination (i.e., violation of the rights, freedoms and lawful interest of a person based on their gender, race, color, nationality, language, origin, property, family, social status and position, age, residence, relation to religion, affiliation with public associations or any social groups) is punishable by an administrative fine between RUB 50,000 and RUB 100,000 (approximately USD 684 to USD 1,368) on a company.

The above violation committed by a person through the use of their official position is prohibited by the Criminal Code of the Russian Federation and is punishable by: (i) a fine between RUB 100,000 and RUB 300,000 (approximately USD 1,368 to USD 4,107), or in the amount of a convict's salary or another income for a period of one to two years; (ii) deprivation of the right to hold specified offices or

engage in specified activities for a term of up to five years; (iii) obligatory labor for a term of up to 480 hours or corrective labor for a term of up to two years; or (iv) deprivation of liberty for up to two years.

14.7 Avoiding discrimination and harassment claims

An employer is obliged to protect its employees against discrimination and to take preemptive action.

15 Termination of employment

15.1 General overview

Termination of employment in Russia is strictly regulated by the Labor Code and can only be carried out on specific grounds, such as the following:

- mutual consent between the parties
- the employer's initiative
- the employee's initiative
- expiry of a fixed-term employment contract

"At-will" termination of employment is generally not permitted, except in the case of the employment of a company's CEO.

Various aspects of these options to terminate employment are covered below.

15.2 By the employer

Unilateral termination

The Labor Code sets out the circumstances that entitle an employer to unilaterally terminate its employment relationship with an employee (regardless of whether it is for a definite or indefinite period):

- liquidation of the organization or termination of activity by the individual entrepreneur acting as the employer
- redundancy
- unsuitability of the employee for the job position held or job performed, as a result of insufficient qualifications as confirmed by the results of the employee's formal evaluation
- change of the owner of the organization's assets (applies to the company's CEO, their deputies and chief accountant)
- repeated failure by the employee to perform, without justifiable reasons, their employment duties and the employee has a valid disciplinary sanction imposed on them
- a gross breach by the employee of their employment duties, such as the following:
    - absenteeism, i.e., absence from the workplace without justifiable reasons for more than four consecutive hours in the course of a working day (shift)
    - reporting to work (at their workplace, on the premises of the employer's organization or at a location where the employee is to perform their employment function under instruction from the employer) under the influence of alcohol, narcotics or other intoxicating substances

  - disclosure of a legally protected secret (including state, commercial, service and other secrets), which became known to the employee in connection with their performance of employment duties, including the disclosure of the personal information of another employee
  - committing, at the place of work, theft (including petty theft), embezzlement, willful destruction or damage of property, if established by court conviction or a resolution of a judge, body or official duly authorized to consider cases on administrative breaches, and such conviction or resolution has come into legal force
  - breach of work safety requirements by the employee established by a work safety commission or work safety official if the breach resulted in grave consequences (job-related accident, emergency or disaster) or intentionally created an actual threat of such consequences
- culpable actions by an employee directly involved in handling monetary or other valuables where such actions constitute grounds for the employer's loss of trust in the employee
- failure to take measures to regulate conflicts of interest and other related actions (if applicable), if such actions constitute grounds for the employer's loss of trust in the employee (these grounds for termination apply to employees of state-owned companies)
- commitment of an immoral act by an employee with tutorial responsibilities where such act is incompatible with the employee's work continuation
- taking of an unfounded decision by the company's CEO (the head of the branch or representative office of the organization), their deputies or the chief accountant of the organization where the decision resulted in a breach of the protection of the organization's property, illegitimate use of the property or other damage to the property
- a gross breach of employment duties by the company's CEO (the head of the branch or representative office of the organization) or their deputies
- forging of documents by the employee to the employer upon the conclusion of the employment contract
- on grounds that are provided in the employment contract of the company's CEO or a member of its collective executive body
- in any other cases provided by the Labor Code and other federal laws

With respect to the company's CEO, the Labor Code sets out additional grounds for termination at the unilateral discretion of the employer:

- in relation to the removal from the head office of a debtor organization, in accordance with the legislation on insolvency (bankruptcy)
- in relation to the decision to terminate the employment contract, taken by an authorized body of the legal entity, the owner of the organization's assets or a person (body) authorized by the owner
- if the ultimate ratio is not observed between the average monthly wages of the deputy head and/or the chief accountant of a) the state extra-budgetary fund of the Russian Federation, b) the territorial fund for obligatory medical insurance, c) a state or a municipal institution, or d) a state or a municipal unitary enterprise, and of the average monthly wages of the employees of the given fund, institution or enterprise

- on any other grounds provided for by the employment contract, which can have substantial consequences as this permits an employer and the head of the company to determine the grounds for terminating the employment relationship

For specific categories of employees, the Labor Code provides the following additional grounds that would permit an employer to unilaterally terminate an employment relationship:

- An employee hired by a natural person acting as the employer or an employee of a religious organization may be terminated on the grounds that are specified in the employment contract.
- An employee holding a second job may have their employment contract terminated where another employee is hired to do the job and such job is their principal one.
- A teaching professional working with an educational institution can have their employment contract terminated on the following grounds:
    - a repeated gross breach, within one year, of the charter of the educational institution
    - use of teaching methods involving physical or psychological violence or force on a student
    - where the rector, pro-rector, faculty dean or head of a branch (institute) of a state or municipal educational institution of higher occupational level reaches the age of 65

Termination of distance employees

Under new rules, employers no longer have the right to establish additional termination grounds in the employment agreements with distant employees. However, there are two additional statutory grounds for the employment termination of distant employees:

- an employee's failure to cooperate with the employer within two working days at the employer's request (unless a longer period is set out by policy)
- an employee's change of locality that makes it impossible to continue work on the terms set out by the contract

Termination of home-based employees

Employment contracts with home-based employees may provide specific grounds for termination of employment in addition to those provided by the Labor Code.

Termination of temporary employees

In relation to temporary employees, an employment contract may be terminated upon the expiry of its effective term. An employee shall be warned in writing of the termination of their contract at least three calendar days before their dismissal. At the same time, if neither the employer nor the employee requests a termination of a fixed-term employment contract and the employee continues to work after the expiration of its term, then the fixed-term employment contract becomes an indefinite-term contract.

The employer may terminate the employment of temporary employees who have employment contracts for up to two months due to liquidation of the organization or staff redundancy by giving three days' written notice.

Termination of seasonal employees

The Russian Labor Code establishes certain notice and severance requirements for seasonal employees.

The employer may terminate the employment of seasonal employees (employees who have concluded an employment contract for a certain period (season) generally not exceeding six months) with seven days' written notice due to liquidation of the company or staff redundancy. Such employees are entitled to severance pay in the amount of their average earnings for two weeks in cases of termination due to liquidation of a company or staff redundancy.

15.3 By the employee

Generally, employees are entitled to terminate their employment at any time by giving two weeks' written notice to the employer, without reason. A company's CEO may terminate employment at their discretion by giving one month's notice.

Seasonal employees and temporary employees who have employment contracts for a fixed term of up to two months have the right to terminate their employment early by giving three days' prior written notice.

15.4 Employee entitlements on termination and formalization of termination

In some cases of employment termination (i.e., due to staff redundancy, liquidation of the organization or termination of activities of an individual entrepreneur), an employee is entitled to severance (see **15.9** below).

Upon termination of employment, all outstanding payments must be made to the employee on the date of dismissal. Payments due to the employee upon termination should include the following:

- all outstanding salary and bonuses
- compensation for all accrued but unused vacation
- severance payments (if applicable)
- any other outstanding payments

The employer must duly formalize the termination process, i.e., execute an order for the termination of the employment contract to be provided to the employee to read and sign, make the relevant entry in the employee's work book, hand it over to the employee and provide the necessary financial documents to the employee, etc.

15.5 Notice periods

By the employer

In cases of liquidation of the organization or staff redundancy, the employer is required to give at least two months' prior written notice to the relevant employees. Failure to comply with this requirement may invalidate the termination and result in the employee's reinstatement in the job (see below at **15.11**).

By the employee

Please refer to **15.3** above.

15.6 Terminations without notice

The Labor Code does not provide specific regulations on "termination without notice." Different termination procedures apply to different grounds of termination of employment, some of which require notice (i.e., staff redundancy, termination due to liquidation of the company).

For instance, an employer may terminate the employment of the head of a company (unless they belong to a "protected" category of employees) without any notice by a resolution of its authorized body, the owner of the organization's assets or a person (body) authorized by the owner. In this case, the head of the company will be eligible for compensation of at least three times the average monthly salary (statutory minimum) or more if a higher severance payment is specified in the employment contract.

In the case of termination of employment by an employee, the contract may be terminated before the expiration of the notice period (see **15.3**) upon the mutual consent of an employer and an employee. Moreover, if an employee has justifiable reasons to terminate employment (i.e., if they have been enrolled into an educational institution, have reached retirement, etc.), the employer must terminate the employment contract with such employee on the date specified in the employee's letter of resignation.

15.7 Form and content of termination notice

To be valid, a notice of termination must be in writing and signed as an original (no scan, fax, copy, etc.) by the competent person. An employee must countersign it. Should the employee refuse to sign the notice (e.g., a notice of termination due to staff redundancy), the employer may execute a corresponding statement to confirm this fact, which should be signed by witnesses. Russian law does not establish specific requirements with regard to termination notice. However, to avoid any possible disputes, a notice of termination should clearly express the intention to terminate the employment and contain any other relevant provisions depending on the grounds for the termination of employment.

15.8 Protected employees

The Labor Code gives protection to a number of specific categories of employees, particularly female employees, as follows.

Pregnant women

It is prohibited for an employer to dismiss a pregnant woman, except in cases of the liquidation of a company or termination of activities of an individual entrepreneur. If a fixed-term employment contract expires during the pregnancy period, the employer must, upon the written request of the pregnant employee and based on the medical certificate provided by her, prolong it until the end of pregnancy or, if a woman takes maternity leave, until the end of this leave, upon the woman's request.

Employees with family obligations

Women with children under 3 years old, single mothers (defined as cases where the paternity of the child has not been legally established) with children under 14 years old (18 if the child is disabled), and any other persons bringing up children under these ages and categories without the assistance of their mother can only be dismissed in exceptional cases (i.e., due to liquidation of a company, a single gross violation or repeated breach by the employee of their employment duties).

The same restrictions for parental leave also apply to fathers with three or more minor children (if one of them is under 3 years of age) if the mother is unemployed, and to mothers or fathers who are single wage earners in a family with a disabled child (children) under the age of 18. Such employees can only be dismissed in exceptional cases, for example, due to a single gross violation or repeated breach by the employee of their employment duties or due to the liquidation of the company.

Underage employees

The Labor Code provides that employees who are under 18 years old, in cases other than the liquidation of the organization, may only be dismissed with the consent of the corresponding State Labor Inspectorate and the Commission on Minors and Protection of Their Rights.

Disabled employees

There are no regulations governing the termination of contracts with disabled employees, other than the general non-discrimination rules.

Members of trade unions

The employer must take into account the motivated opinion of the primary trade union organization in order to dismiss employees who are trade union members in cases where: (i) the position has become redundant; (ii) the employee is unable to perform adequately due to insufficient qualifications, as confirmed by an evaluation process; or (iii) the employee repeatedly fails to perform, without justifiable reasons, their employment duties where the employee has had a valid disciplinary sanction imposed on them. In addition, termination of a leader (and their deputy) of the collective bodies of the primary trade union organization in cases specified in points (i) and (ii) above is only allowed upon the consent of the superior trade union organization (if any). Termination of a trade union leader's employment contract on the grounds specified in point (iii) above is allowed upon the opinion of the superior trade union organization. The trade union must provide its opinion/decision within seven days after being notified by the employer of the dismissal.

If the trade union does not provide its opinion/decision on the termination of the trade union member within seven days, the employer may take the decision to terminate without regard to such trade union's opinion/decision. If the trade union disagrees with the employer's decision, the parties may initiate mutual consultations within three days. If the trade union and the employer cannot reach a mutual decision within 10 working days, the employer has the right to make the final decision itself. However, this decision may be appealed at the State Labor Inspectorate or in court. The employee must be dismissed within one month of receiving the trade union's reasoned opinion/decision.

15.9 Mandatory severance

In certain events, an employee who is unilaterally dismissed by an employer has the right to receive a severance payment.

In the event of staff redundancy or the liquidation of the employer, an employee is entitled to receive at least two months' prior notice and, on the date of dismissal, a mandatory severance payment equal to one month's average salary. In the event that the employee has not been able to secure alternative employment following the date of termination, they may be entitled to receive up to two additional months' average earnings as severance payment.

The employee is entitled to receive a severance payment of not less than two weeks' average earnings when dismissed in the event that they:

- refuse to transfer to another job, which is necessary due to health reasons confirmed by a relevant medical certificate, or due to the lack of suitable work with the employer
- are drafted or enlisted into the army or alternative civilian service
- are replaced by the employee who previously held the position
- refuse to be transferred to a new location with the employer
- are recognized as disabled for employment activity in accordance with a medical certificate
- refuse to continue work due to a change of the terms of the employment contract agreed upon by the parties

For termination of employment by mutual consent, there is no legal requirement to make a severance payment to an employee, although it is usually agreed by the parties.

15.10 Collective redundancy situations

Thresholds

The thresholds that apply to collective dismissal depend on the industrial or territorial agreements concluded between the authorized representatives of the employees and the employers regarding any industrial or territorial thresholds. If no such agreement applies to the employer, the national legislative thresholds will apply, unless regional legislative thresholds apply. The national thresholds that apply to intended redundancies are as follows:

- liquidation of a company with 15 employees or more
- termination due to staff redundancy of the following:
    - 50 or more employees over 30 calendar days
    - 200 or more employees over 60 calendar days
    - 500 or more employees over 90 calendar days
- termination of 1% of employees of the total headcount due to liquidation of the company or staff redundancy within 30 days in regions with a total working population of less than 5,000 people

With respect to regional thresholds, the following criteria for mass layoffs are applicable to an employer in Moscow with 15 employees or more:

- 25% of the total staff in the organization in any 30-day period
- termination due to staff redundancy of the following:
    - 50 or more employees within any 30-day period
    - 200 or more employees in any 60-day period
    - 500 or more employees in any 90-day period

Procedure, and information and consultation requirements

In cases of collective dismissal, where the above thresholds are met, the employer is obliged to comply with additional requirements, including an extended notice period (of at least three months) for notification to the employment center and trade unions (if any). In addition, there is a possible requirement to develop measures to reduce the number of employees to be dismissed in cooperation with the employment center (for instance, suspension of recruitment, part-time employment schemes, etc.) or to arrange anticipatory professional training of the employees to be made redundant.

15.11Claims, compensation and remedies

The violation of labor legislation (including those related to illegal termination) is considered an administrative offense under the Russian Code of Administrative Violations. The severity of punishment depends on the type of violation.

For such violations, the employer could be subject to a fine of RUB 30,000 to RUB 50,000 (approximately USD 410 to USD 684). Its officials and responsible employees could be subject to a fine of RUB 1,000 to RUB 5,000 (approximately USD 14 to USD 68).

The Russian Code of Administrative Violations also provides penalties for nonpayment or incomplete payment of salary or other sums due to employees (including severance and other sums due upon

termination). Such violations entail a warning or an administrative fine of RUB 10,000 to RUB 20,000 (approximately USD 136 to USD 272) for officials, and a fine of RUB 30,000 to RUB 50,000 (approximately USD 410 to USD 684) for the employer.

With regard to each violation, the Russian Code of Administrative Violations establishes increased punishment if such violations are committed repeatedly (heavier fines and even disqualification of responsible officers for a period of up to three years). Importantly, as a consequence of the imposition of any administrative fines (regardless of the amount), officials who are foreign citizens may face difficulties obtaining Russian visas and entry into Russia in the future.

The Russian state authorities' approach regarding the possibility of multiplying fines by the amount of violations is not yet unified. Subsequently, they may either impose such sanctions for each separate violation or for the finding of all of the violations.

Employees who are wrongfully dismissed may be reinstated by the court. In this case, the employer will be ordered to pay the employee their average earnings for the period from the date of dismissal until the date of reinstatement, moral damages, as well as reasonable compensation for expenses incurred by the employee's attorneys.

There is also criminal liability for violating labor legislation. The unfounded dismissal of a woman because of her pregnancy and the unfounded dismissal of a woman with children under 3 years old shall be punishable with a fine of up to RUB 200,000 (approximately USD 2,738) or by compulsory work for up to 360 hours. As part of its pension reforms, starting from 14 October 2018, Russia introduced criminal liability for unjustified dismissal or refusal to hire persons who are less than five years from reaching retirement age. An employer's officers may face fines of up to RUB 200,000 (USD 2,738) or the equivalent of the infringer's income for up to 18 months, or compulsory work for up to 360 hours for unjustified dismissal or refusal to hire pre-pension age employees.

15.12 Waiving claims

Russian law does not recognize a waiver of claims by an individual. The Russian Code of Civil Procedure specifically invalidates any promise by an individual not to resort to court for the protection of the actual right infringed.

16 Employment implications of share sales

16.1 Acquisition of shares

In a share acquisition, the employment conditions of the employees of the target company remain unchanged as the employer remains the same.

16.2 Information and consultation requirements

Mergers and acquisitions do not require specific consultation with trade unions or employees. General consultation obligations with regard to certain employment procedures are outlined above (see **15.8** and **15.10**).

17 Employment implications of asset sales

17.1 Acquisition of assets

Acquisition of the company's assets by a third party does not entail any legal consequences for the employees in terms of their employment, as the company's employees do not follow the assets purchased by a third party. Additionally, employees themselves are not considered the company's assets.

17.2 Automatic transfer of employees

The law does not require employees of the target company to be automatically transferred with the acquired assets. Therefore, in an asset acquisition the purchaser may select which employees of the target company it is willing to employ and offer them new employment.

A transfer to another employer legally involves termination of the previous employment and employment with the new employer. However, the transfer of employees does require the employees' consent. In transfers involving foreign employees, any Russian immigration issues should be resolved before the transfer.

17.3 Changes to terms and conditions of employment

The law does not require that the terms of employment of the transferred employees with the purchaser mirror those with the seller.

17.4 Information and consultation requirements

Mergers and acquisitions do not require specific consultation with trade unions or employees. General consultation obligations with regard to certain employment procedures are outlined above (see **15.8** and **15.10**).

17.5 Protections against dismissal

Please refer to **15.8**.

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