

Rödl & Partner

EXPERT ADVICE

HOW SHOULD WORK BE ORGANIZED
DURING THE PERIOD BETWEEN 12 MAY
AND 31 MAY?

Recommendations regarding how
companies should organize their work



On 11 May 2020 the President of the Russian Federation issued Decree no. 316 which says that the regime of “non-working days” in effect till May 11 will not be extended. This decree also grants governments of Russia’s regions the authority to independently introduce restrictive measures, including suspension of entity operations within their subordinate regions. The employees are entitled to continued salary payments where the operations of their employer entity have been prohibited or restricted/suspended.

On 7 May 2020 the Mayor of Moscow issued a new decree – Decree no. 55-UM – clarifying the rules for the high-alert regime between 12 May and 31 May 2020. By Order no. 121 in the version of 09.05.2020, the Government of St.-Petersburg has also prolonged the restrictive measures introduced earlier till 31 May 2020. The only significant change was the introduction of an obligation for the general public to wear protective masks and gloves in public places and on transports.

However, the changes in the measures currently in effect in Moscow under Decree no. 55-UM issued by the Mayor of Moscow are very significant and impose new obligations on the employers.

What new regulations does this Decree introduce (in an overview)?

- General quarantine regime extended till 31 May;
- Some entities may resume their work on 12 May, but the employers are under an obligation to perform mass tests of their employees for Covid-19;
- Employers may not allow pregnant women and persons suffering from certain diseases and health conditions to work on company premises;
- Employers are obliged to install partitions between workplaces in the rooms where it is not possible to comply with the employee social distancing requirements;
- RosPotrebNadzor recommendations were declared mandatory to follow.



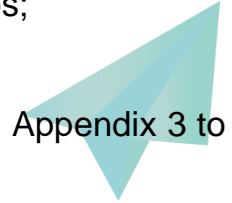


What companies can resume their work on 12 May?

Some restrictions have been removed from manufacturing and construction companies in the first place. In particular, companies operating in the following spheres were removed from the list of entities whose personnel are not allowed to work on company premises:

- Architecture and engineering design; technical testing, research and analysis;
- Manufacture of textiles, clothing, leather items;
- Manufacture of rubber and plastic products;
- Manufacture of furniture;
- Repair and assembly of machinery and equipment;
- Construction of buildings and engineering structures;
- Specialized construction work types;
- Manufacture of paper and paper products (excepting packaging for the food industry, pharmaceuticals and medical activities); manufacture of other non-metal mineral products;
- Manufacture of metallurgy products;
- Manufacture of finished metal items other than machinery and equipment;
- Manufacture of computers, electronic and optical products;
- Manufacture of electrical equipment;
- Manufacture of machinery and equipment not included in other groups;
- Manufacture of other finished products.

An exhaustive list of such activity spheres for companies can be found in Appendix 3 to the Decree.



What new obligations were imposed on the employers whose operations have not been suspended or whose suspension has been withdrawn? What is the correct approach for the discharge of these obligations?

3.1

Obligation:

The employer may not admit the following employee types to work on company premises: pregnant women, persons suffering from certain diseases and health conditions (such as diabetes and obesity as well as other diseases and health conditions listed in Item 1.1 of Appendix 6 to the Decree) as well as persons showing symptoms of a respiratory distress syndrome or having someone with such symptoms in their household.

Correct approach to discharge the obligation:

Since Article 65 of the Russian Labour Code does not allow demanding from employees to disclose such information, but this information is necessary for the employer's decision-making, it should be mentioned in the request for this information that the employee is under no obligation to disclose it and is only requested to do so in accordance with the Mayor's Decree to protect employee health. Such employees should be transferred to teleworking on the basis of a written agreement. Where teleworking is not possible, the employees concerned may be granted their outstanding paid leave for the year based on their applications to the effect; an alternative solution may be the employee's transfer to a different position in accordance with Article 73 of the Labour Code or registration of downtime.

What new obligations were imposed on the employers whose operations have not been suspended or whose suspension has been withdrawn? What is the correct approach for the discharge of these obligations?

3.2

Obligation:

The employer must ensure that employees wear means of personal protection (masks and gloves) protecting their hands and respiratory system at their workplaces and on the employer's premises, except where the employee is working in a separate room.

Correct approach to discharge the obligation:

Management should issue a company order establishing the rules for use of personal protection means and pointing out the obligation to comply with the Mayor's Decree. It is also recommended to ensure that the entire personnel have protective masks and gloves.



What new obligations were imposed on the employers whose operations have not been suspended or whose suspension has been withdrawn? What is the correct approach for the discharge of these obligations?

3.3

Obligation:

The employer must ensure that at least 10 per cent of the personnel are tested for the new Covid-19 infection during the period between 12 May and 31 May 2020.

Correct approach to discharge the obligation:

It should be assumed that the Decree means 10 per cent of the employees currently working on the employer's premises. The testing procedure must also be approved by a company order and the employees should be made aware thereof and got to acknowledge this awareness with their signature. The list of laboratories authorised to perform testing for Covid-19 is available on RosPotrebnadzor website at:

https://www.rospotrebnadzor.ru/region/korono_virus/perechen_lab.php

A service contract will have to be concluded with the chosen laboratory. The expense to perform these tests is to be borne by the employer.

What new obligations were imposed on the employers whose operations have not been suspended or whose suspension has been withdrawn? What is the correct approach for the discharge of these obligations?

3.4

Obligation:

The employer must “ensure collection of employee blood samples for laboratory enzyme immunoassay (ELISA) testing thereof for the presence of the new Covid-19 infection (2019-nCoV) and immunity thereto in accordance with the procedure and within the terms established by the Moscow Department of Public Health”.

Correct approach to discharge the obligation:

It should be expected that the Moscow Department of Public Health will issue a separate order regarding the procedure for interaction between companies and medical institutions for this purpose. We recommend contacting the Moscow Department of Public Health directly as early as at this stage using their phone hotline **+7 (499) 251-83-00** in order to clarify details.



Employers are obliged to install partitions between workplaces in the rooms where it is not possible to comply with the employee social distancing requirements.

What new obligations were imposed on the employers whose operations have not been suspended or whose suspension has been withdrawn? What is the correct approach for the discharge of these obligations?

3.5



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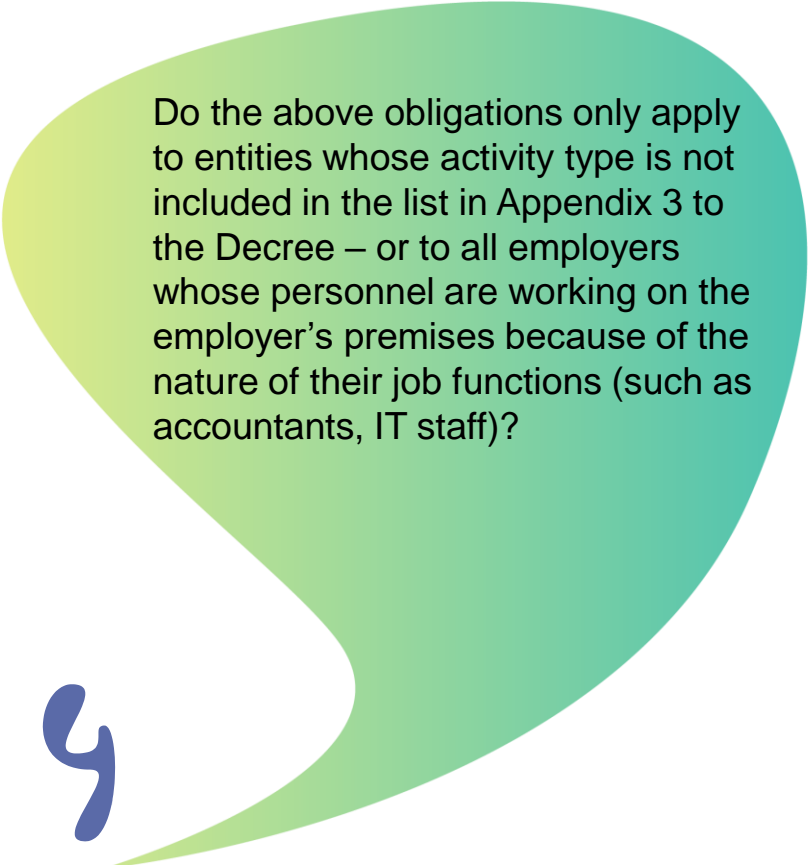
3.6

Employers are obliged to ensure compliance with the recommendations issued by RosPotrebNadzor to prevent the spread of the new coronavirus infection.

At present this Federal service has published some recommendations on its website as to how work must be organised in companies operating in the sphere of construction, services and public catering, in case of work under a rotation system as well as some other recommendations available at:

https://www.rospotrebnadzor.ru/region/korono_virus/rek_ros.php






Do the above obligations only apply to entities whose activity type is not included in the list in Appendix 3 to the Decree – or to all employers whose personnel are working on the employer's premises because of the nature of their job functions (such as accountants, IT staff)?

According to a literal interpretation of the above-mentioned decree, these obligations only apply to companies not covered by the operations lockdown or restrictions. The intent of these new obligations is to prevent an outbreak of the infection after employees return on a mass scale to work on the employer's premises.





What else should one keep in mind?

The general recommendations regarding teleworking of employees apply even where the company's operations are not covered by any restrictions or where such restrictions have already been removed. The employer is also obliged to submit information on the number of their employees working on the employer's premises and of those working from home on a standard form provided in Appendix 4 to the Decree.

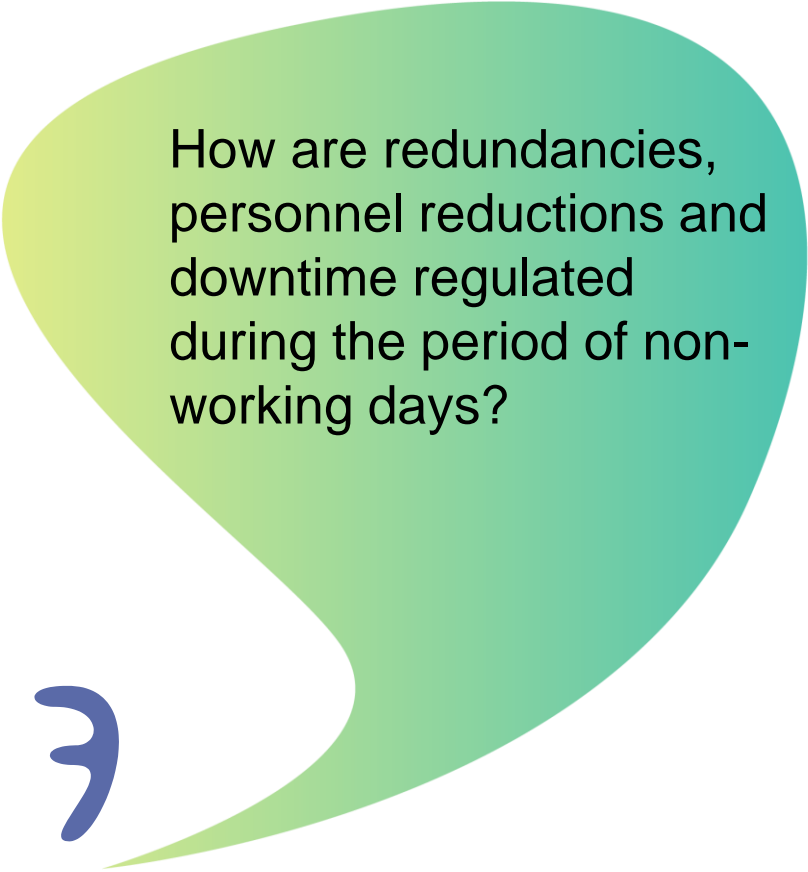


What happens with digital passes?

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Decree no. 56-UM says that the work passes valid till 11 May 2020 will be extended up to and inclusive 31 May 2020. As a general rule, employees are independently responsible for having a valid pass. If the company's operations have been suspended, the system may not allow the employees of that company to obtain passes; in that case the company should first submit a list of the employees requiring a pass through the company's personal account at mos.ru and then the employees from the list will be able to have their passes extended or issued. You can find out which group your company has been included in by entering the company's taxpayer identification number (INN) in a special service window at: <https://i.moscow/covid>. There is no single exhaustive list of companies whose employees are entitled to be issued work passes; supervising officers may check the authorisation to have passes issued on case-by-case basis.





How are redundancies, personnel reductions and downtime regulated during the period of non-working days?

The Mayor's Decree does not include any specific regulations regarding termination of the employment relationship during the high-alert period. However, the Ministry of Labour has commented on these matters in a new issue of its Q&A materials at: <https://rosmintrud.ru/employment/54>

It says in particular that the employer may only register downtime where the regional government has not suspended the company's operations. Otherwise this will be treated as non-compliance with the Presidential Decree on continued payment of salaries and wages.

Companies subject to non-working days regime may not make anyone redundant on the employer's initiative during the lockdown period. Termination of the employment relationship is possible on case-by-case basis under an individual agreement.





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