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# BUSINESS QUARTERLY

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## ESG

## SAFETY, HEALTH, ENVIRONMENT AND SECURITY

**ОХРАНА ТРУДА, ЗДОРОВЬЕ,  
ОКРУЖАЮЩАЯ СРЕДА  
И БЕЗОПАСНОСТЬ**

**Challenges in  
health and safety  
amid the pandemic**

Вызовы в области охраны  
труда на фоне пандемии

**EPR: innovations  
and legal practice  
in 2021**

РОП: новеллы и судебная  
практика в 2021 году

**ESG: a global  
trend in the  
energy sector**

ESG: глобальный тренд  
в энергетическом секторе

**Selection  
of a private  
security vendor**

Выбор подрядчика  
в сфере безопасности



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# MATERIAL AMENDMENTS TO OCCUPATIONAL HEALTH AND SAFETY REGULATIONS IN THE RUSSIAN LABOUR CODE

Amendments to Section X of the Labour Code of the Russian Federation on occupational health and safety introduced by Federal Law No. 311-FZ dated 2 July 2021 enter into force on 1 March 2022. These amendments not only clarify and update the existing provisions of the Labour Code, but also introduce new rights and obligations of both employers and employees. In the following article we consider some new regulations that employers should take into account.

## **WORKING IN HAZARDOUS CONDITIONS IS EXPLICITLY PROHIBITED**

A new Article 214.1 has been introduced to the Labour Code of the Russian Federation "Prohibition of work in hazardous working conditions". According to the Article, if the conditions at the workplace are declared hazardous (grade 4) based on the results of a special assessment of working conditions (special assessment), as a rule, the employer is required to suspend operations at this workplace.

The suspension of work continues until the reasons for classifying the working conditions as hazardous have been eliminated.

During such a suspension the employee retains his/her place of work and average earnings. With the consent of the employee, he/she may also be transferred for the period of the suspension to another job with remuneration for the work being performed, but not lower than the employee's average earnings at the previous job.

The resumption of operations is only possible after the performance of an unscheduled special assessment which confirms that the hazardous factors have been eliminated.

This prohibition does not apply to work in emergencies or specific types of work to be approved by the Government.

## **NEW RULES RELATED TO THE USE OF PERSONAL PROTECTIVE EQUIPMENT**

The employer remains responsible for providing employees with personal protective equipment (PPE).

At present, when providing PPE, employers should adhere to the standard rules for issuing PPE (they are approved for specific sectors of the economy and industries), which will remain in force until 31 December 2024. Under the new rules, employers will need to establish norms for the free issue of PPE, adhering to the unified rules for providing workers with PPE, taking into account the results of the special assessment,

professional risk assessment and the opinion of a trade union (if any).

The employer will be required to suspend from work without the retention of wages any employee who does not use the PPE issued to him/her in accordance with the procedure established by law, the use of which is mandatory during work in harmful and/or hazardous working conditions, as well as during work in special temperature conditions. At present, such a suspension may in general only apply to employees working underground.

In cases where the employer does not provide PPE to the employee, it may not demand that the employee perform employment duties and is required to pay the employee for the downtime arising for this reason in the amount of the employee's average earnings.

#### **REGISTRATION OF THE MINOR INJURIES OF EMPLOYEES**

In addition to the investigation of accidents, employers will be required to register and consider the circumstances and causes that led to the occurrence of minor injuries.

According to Article 226 of the Labour Code, minor injuries are abrasions, bruises, soft tissue bruises, superficial wounds and other injuries sustained by employees and other individuals participating in the employer's production activities during the performance of their employment duties or any work on behalf of the employer, as well as during other lawful activities in connection with employment relations, which did not entail health disorders or the onset of temporary disability.

However, the employer does not have such a duty in each such instance. This duty only arises on the basis of the appeal of an employee to the supervisor or representative of the employer. Recommendations for the registration of minor injuries are to be approved by the Ministry of Labour.

#### **EMPLOYERS ARE REQUIRED TO SYSTEMATICALLY IDENTIFY HAZARDS AND OCCUPATIONAL RISKS, ANALYZE AND ASSESS THEM ON A REGULAR BASIS**

At present, this is regulated primarily at the level of recommendations. However, this will become a legal obligation from March 2022.

Occupational risks are divided into the risks of injury to an employee and the risks of an occupational disease.

Hazards should be identified during occupational health and safety audits, investigations of accidents and minor injuries, etc.

#### **DIGITIZATION IN OCCUPATIONAL HEALTH AND SAFETY**

At present employers are already authorized to video production processes. However, the legal basis for such action is not explicit, limited and restrictive. Effective March 2022, this option will be documented directly in the Labour Code: the employer will be entitled to use devices, equipment and various systems that provide remote video, audio or other recording of work processes, and store the information received, in order to monitor the safety of work. In our opinion, this could also cover location tracking.

In addition, in the area of occupational health and safety employers will be entitled to maintain electronic paperwork.

#### **WORKS AT THIRD PARTY SITES**

Special attention should be paid to a new norm requiring an employer, who intends to perform work or provide services in an area which is controlled by another employer, to contact the latter in advance to coordinate actions aimed at preventing any harm to the health of employees, including the employees of third parties performing work (providing services) in the respective area. An indicative list of the actions to be taken, aimed at preventing any harm to the health of employees, is to be approved by the Ministry of Labour.

#### **CONCLUSION**

Consequently, the key trend in the amendments to Section X of the Labour Code is the imposition of a significant number of new duties on employers, combined simultaneously with the granting of some autonomy in a number of cases. Therefore, we recommend that employers familiarize themselves with the new requirements in advance and prepare the necessary changes to work processes.