

[CLICK HERE TO REACH OUR CORONAVIRUS RESOURCE CENTER](#)

COVID-19: Sweeping Changes in Russian Legislation

9 April 2020

In response to the spread of the novel coronavirus infection COVID-19 (“COVID-19”) in Russia, the Government has implemented sweeping measures to curtail the exponentially increasing number of people who are becoming infected with COVID-19 and to mitigate the adverse impact of such measures on the economy. On 1 April 2020, the Russian President signed into law a number of large-scale changes to Russian legislation,¹ including in relation to state procurement, licensing, the compliance auditing of businesses, bankruptcy, real estate leasing² and the circulation of drugs and medical goods (the “Changes”). On the same day, amendments were also made to the Criminal Code of the Russian Federation (the “Russian Criminal Code”) and the Code of Administrative Offences of the Russian Federation (the “Russian CAO”) to increase the severity of penalties that may be imposed on individuals and entities for failing to comply with the anti-epidemic regulatory regime.

The Changes and the amendments to the Russian Criminal Code and Russian CAO became effective on 1 April 2020.

We set out below a summary of the key amendments.

HIGH ALERT OR EMERGENCY REGIME

The Russian Government is now authorised to impose a high alert (“HA”) or emergency (“EM”) regime in Russia generally or in certain territories in the event of a threat and/or occurrence of an emergency situation at the federal or multi-regional level. Once an HA or EM regime comes into effect, the Russian Government may impose mandatory rules on the conduct of individuals and entities.

¹ Federal Laws No. 98-FZ on the Amendments of Certain Legislative Acts of the Russian Federation Related to the Prevention and Elimination of Emergencies; No. 99-FZ on the Amendments to the Code of Administrative Offences of the Russian Federation; No. 100-FZ on the Amendments to the Criminal Code of the Russian Federation and Articles 31 and 151 of the Criminal Procedure Code of the Russian Federation dated 1 April 2020 and other laws.

² Changes relating to real estate leasing will be addressed in a separate update.

Governmental agencies of the constituent entities of the Russian Federation are likewise authorised to impose mandatory rules of conduct on individuals and entities, whilst an HA or EM regime is in effect because of a threat and/or occurrence of an emergency situation at the regional or municipal level. In case an HA or EM regime was introduced by the Russian Government, they are entitled to impose additional rules on conduct on individuals and entities, provided that any such rules of conduct are not inconsistent with any rules imposed by the Russian Government at the federal level.

NEW GROUNDS FOR PROCUREMENT FROM SINGLE SUPPLIER

The Changes have modified the list of circumstances under which goods, works and services may be procured from a single supplier to meet the needs of the state. In particular, such procurement is now permitted:

- to prevent (whilst an HA regime is in effect) and/or eliminate an emergency situation if it is impractical, due to time constraints, to engage a supplier on a competitive basis;
- to facilitate the performance of special tasks undertaken to ensure the defence and security of the nation, including to combat terrorism, by competent governmental bodies and their subordinate institutions and enterprises.

The Russian Government may, up to 31 December 2020, establish the procedures and additional grounds for such single-supplier procurement.

Over the course of 2020, pursuant to the Changes, parties to procurement contracts with the state may modify the periods in which they are bound to perform their contractual obligations and/or the price of such contractual obligations if circumstances beyond their control, resulting from the COVID-19 pandemic, render the performance of such contractual obligations impossible. In addition to agreement between the relevant parties, the exercise of the right to make such modifications must be accompanied by written substantiation, based on measures taken by the relevant governmental or municipal authorities, and new security from the relevant supplier to secure the performance of new obligations under the modifications that do not benefit from existing security arrangements.

CLARIFICATION FOR LICENCES AND OTHER PERMITS

The Russian Government has been authorised over the course of 2020 to permit persons whose licenses and/or other permits have expired to continue their respective activities for a certain period of time without having to obtain renewals or extensions to their licences and/or

other permits. Recipients of such permission would be able to carry on their businesses without renewed or extended licences or permits without the risk of being subject to penalties that would ordinarily apply if their businesses were carried on without the requisite licence or permit. The Russian Government may also determine the grounds and procedures for issuing new licences and/or other permits instead of expired ones, for the renewal of expired licences and/or other permits, and for extension of such licenses and/or permits without undertaking the usual process of verifying whether the holders of such licences and/or permits are compliant with the relevant requirements to hold them and without the payment of state duty.³

NO COMPLIANCE AUDITS FOR SMALL- AND MEDIUM-SIZED BUSINESSES

Pursuant to the Changes, no compliance audits will be conducted from 1 April 2020 until 31 December 2020 in respect of small- and medium-sized businesses included in the Unified Register of Small- and Medium-Sized Businesses. This excludes compliance audits that serve to ensure compliance with laws and regulations relating to natural and man-made emergency situations and the protection of the health and life of individuals.

MORATORIUM ON BANKRUPTCY

Under exceptional circumstances (for example, upon a significant change in exchange rates), the Changes grant the Russian Government the power to impose moratoriums on the commencement of bankruptcy proceedings filed by creditors. The Government may indicate (i) certain listed persons; (ii) certain categories of persons; or (iii) certain types of business activities to which the moratorium applies. The period of such moratoriums will be determined by the Russian Government.⁴

Upon the imposition of a moratorium, no new bankruptcy proceedings in respect of the relevant debtors may be brought by creditors. In respect of debtors subject to moratorium, security interests may not be enforced against pledged property. Similarly, enforcement proceedings on claims that emerged prior to the moratorium are suspended (however,

³ Special procedures for the extension and renewal of licences and other permits and the application of licencing regimes in 2020 are set forth by Decree of the Government of the Russian Federation No. 440 dated 3 April 2020.

⁴ On 6 April 2020, the Russian Government imposed a six-month moratorium on commencement of bankruptcy proceedings filed by creditors in respect of certain debtors. The moratorium applies to entities and sole entrepreneurs that have been most affected by the spread of COVID-19 (the most affected sectors include air transport, hotel business, catering, etc.) and those included in the list of (i) core business entities, (ii) strategic enterprises and strategic joint-stock companies, and (iii) strategic institutions and federal executive bodies providing for the implementation of national government policy in industries where such entities operate (see Decree of the Government of the Russian Federation No. 428 dated 3 April 2020).

restrictions on the disposition of assets of the relevant debtors imposed in support of such enforcement proceedings will continue to be effective).

Once a moratorium is lifted, special rules will apply to bankruptcy proceedings brought against debtors who were previously subject to the moratorium for a period of three months. These special rules may relate to, for example, the calculation of time, the determination of the scope and quantum of the relevant liabilities, employees' claims and mandatory payments and the validity of transactions.

NEW RULES FOR CIRCULATION OF DRUGS AND MEDICAL GOODS

The Russian Government has been granted additional powers in respect of the circulation of drugs and medical goods. The Russian Government may now:

- establish (i) the procedure for the state registration of drugs; and (ii) special rules for the circulation, including in respect of state registration, of medical goods, if such drugs or medical goods are intended for the prevention and treatment of potentially dangerous diseases;⁵
- upon the occurrence of an emergency situation and/or a threat of an outbreak of a potentially dangerous disease, impose restrictions (for a period of not more than 90 calendar days) on the wholesale and retail sale of specific medical goods.⁶

NEW CRIMINAL AND ADMINISTRATIVE OFFENCES

Administrative Liability for Violating Rules for Disease Control and Prevention and the Sale of Drugs.

The Changes have introduced the following administrative penalties:

- for (i) failing to observe applicable sanitary rules and hygiene practices and to implement disease control and prevention measures during an EM or quarantine regime or where a potentially dangerous disease is threatening to spread; or (ii) failing to comply with a

⁵ The respective special rules for 2020 were established by Decree of the Government of the Russian Federation No. 430 dated 3 April 2020 in respect of medical goods and Decree of the Government of the Russian Federation No. 441 dated 3 April 2020 in respect of drugs.

⁶ On 6 April 2020, the relevant restrictions were imposed in respect of certain medical goods (face masks, respirators, etc.) pursuant to Decree of the Government of the Russian Federation No. 431 dated 3 April 2020.

compliance order to implement certain measures during the above periods, issued by the body/official responsible for federal oversight over disease control and prevention:

Maximum penalty: fine of RUB 40,000 for individuals; fine of RUB 150,000 for officials; fine of RUB 500,000 or suspension of business for a period of up to 90 days for legal entities;

- where the above offences cause harm to health or death, but without attracting criminal liability:

Maximum penalty: fine of up to RUB 300,000 for individuals; fine of up to RUB 500,000 or disqualification for up to three years for officials; fine of up to RUB 1,000,000 or suspension of business for a period of up to 90 days for legal entities;

- for breaching any other rules of conduct, imposed under an HA regime, on the territory where there is a threat of EM or in the EM zone, not covered by the offences above:

Maximum penalty: fine of up to RUB 30,000 for individuals; fine of up to RUB 50,000 for officials; fine of up to RUB 300,000 for legal entities;

- for the above-mentioned breach of HA regime, resulting in harm to health or property but without attracting criminal liability;

Maximum penalty: fine of up to RUB 50,000 for individuals; fine of up to RUB 500,000 or disqualification for up to three years for officials; fine of up to RUB 1,000,000 or suspension of business for a period of up to 90 days for legal entities;

- for the sale of drugs in breach of legal restrictions on marking up the wholesale and retail price of drugs;

Maximum penalty: fine of up to RUB 500,000 for officials; fine of twice the amount of the excess sales revenue derived due to improper excessive pricing for the entire period of the offence not exceeding one year.

Criminal Liability for Violation of Rules for Disease Control and Prevention

The Changes have toughened criminal liability for violating rules relating to disease control and prevention. For example, if an offence was committed and by negligence resulted in:

- the outbreak of a disease or widespread poisoning, or threatened to result in such, then the maximum penalty will be imprisonment of up to two years;

-
- death, then the maximum penalty will be imprisonment of up to five years;
 - the death of two or more persons, then the maximum penalty will be imprisonment of up to seven years.

Liability for Dissemination of Deliberately False Information

The Changes introduce tougher measures against the abuse of freedom of the media. Specifically:

- the dissemination of deliberately false information, under the guise of trustworthy reports, in respect of (i) circumstances threatening the life and security of people and/or measures taken to ensure security of people and territories; as well as (ii) methods of protection in these circumstances. The penalties for committing such abuses of freedom of the media are:
 - criminal liability for individuals for public dissemination of such information (maximum penalty: custodial restraint of up to three years);
 - administrative liability for legal entities for the dissemination of such information through media or data telecommunications networks (maximum penalty: fine of up to RUB 3,000,000 with potential confiscation);
- the dissemination of deliberately false socially sensitive information under the guise of trustworthy reports now results in:
 - criminal liability for individuals for public dissemination of such information if it by negligence caused harm to health (maximum penalty: imprisonment of up to three years), death or other grave consequences (maximum penalty: imprisonment of up to five years);
 - administrative liability for legal entities for the dissemination of such information through media or data telecommunications networks if such dissemination resulted in death, harm to health or property, a large-scale disturbance of public order and/or public security or the interruption of operations of certain facilities or infrastructure (maximum penalty: a fine of up to RUB 5,000,000 with confiscation).

* * *

Please do not hesitate to contact us with any questions.

MOSCOW



Alyona Kucher
ankucher@debevoise.com



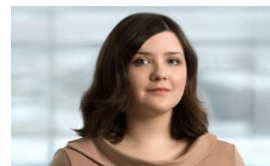
Anna Maximenko
avmaximenko@debevoise.com



Elena Klutcharova
emklutcharova@debevoise.com



Vadim Kolomnikov
vgkolomnikov@debevoise.com



Olga Panfilova
ospanfilova@debevoise.com