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National Features of Remote Work Regulations

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Working outside of the office has been gaining popularity in the United States and Europe since the 1980s. According to U.S. statistics, approximately 5-6 percent of the population, around 17 million people, work remotely, and that number is growing steadily. So, what is the current position in respect of remote work in Russia?

The pace of modern life, requirements of a developing economy, and the high level of development in telecommunications has led to the appearance in Russia of a new form of working that was unknown in Soviet times — "remote work," in which the physical presence of the employee in the employer's office is no longer required.

Remote work has a number of advantages for both the employer (savings on rent, utilities, equipment, reduced absences due to "illness"), and for employees, who are able to decide how to structure their working time in parallel with personal tasks, work at the place of their convenience (not necessarily at home, maybe a café or even on a beach — wherever there is a high-speed Internet connection), and spend the time they would otherwise spend sitting in traffic jams on the daily commute to work.



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Unfortunately, this rapidly spreading and convenient form of employment has yet to find proper legislative support in Russia. At present, the sole means of formalizing work outside the employer's office provided by law is work at home. However, the applicable legislation on work at home is based on a specific and obsolete Soviet model intended primarily for physical labor for the purpose of making products. In accordance with Article 310 of the Labor Code, home workers are persons who enter into an employment contract to work at home using tools and materials supplied by the employer, or purchased by the employee at his/her own expense. The law does not provide for working anywhere other than in the employee's home and it creates an often unrealistic obligation for the employer to inspect the "housing and living conditions" of the employee and verify that these comply with health and safety requirements (particularly where there is a large distance between employer and employee — for example, when the employer is in Moscow, and the employee is in Vladivostok).

Indeed, the "typical" case of a home worker, as contemplated by the law, is where an employer, after checking that the employee's living conditions permit him or her to work at home, provides the employee with needles and yarn, whereupon the employee (alone, or with the help of the rest of the family) knits mittens and socks for delivery to the employer as the product of his or her labor.

In addition to the deficiencies of the home working model described above (i.e. the need to inspect the employee's housing and living conditions and ensure health and safety compliance and the need for the employee to work at home), it should be noted that applicable law does not provide any exemptions to the procedure for formalizing and terminating employment relations with home workers. The employment contract with a home worker (just as with an office worker) must be made in writing as a single document signed by both

parties; the home worker must be familiarized with the hiring order against his or her signature, and so on and so forth. If the home worker works in a different region (as is common for sales agents, medical representatives, etc.), compliance with these rules may cause serious problems for the employer. For example, if the home worker is in Vladivostok and the employer is in Moscow, to dismiss the employee at the initiative of the employer, an authorized representative would have to make at least one return trip to Vladivostok to familiarize the home worker against his signature with a number of documents, and to return his labor book (the law leaves the question of what the employer should do if the home worker avoids the meeting open). If the home worker is ill on the date of the visit by the employer's representative and his or her dismissal is therefore impossible, the employer's representative will have to return to Moscow empty-handed and prepare for another trip when the employee recovers. The alternative — inviting the employee to travel to Moscow at the company's expense and duly documenting the trip — would not be viewed kindly by many employers.

Is there, then, light at the end of the remote work tunnel in Russia? Given the trend of increasing remote work around the world, and the obsolescence of the Russian legal home working model (which is practically unworkable today), there is increasing discussion of the legal regulation of remote work.

A draft law on amendments to the Labor Code of the Russian Federation and Article 1 of the Federal Law on Electronic Signatures, adopted by the State Duma on Oct. 16, 2012 in the first reading, provides, in particular, for remote exchanges of documentation with the employee (removing the need for the employee's personal signature on documents), and also makes it possible to insert new grounds for dismissal (in addition to statutory grounds) of remote workers in employment contracts. Let us hope that this bill will be adopted and become the first step towards legal recognition and regulation of remote working in Russia.

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