

HOW CAN I REDUCE MY LABOUR COSTS?



Economic crisis usually requires tough decisions, including staff redundancy

In times of economic crisis, tough decisions need to be taken to keep a business afloat in the new trading environment. Cutting labour costs is one of the toughest of these decisions, as emotions can run high for both employer and employee. There are also particular complexities under Russian labour laws. Using an independent advisor assists with the process of making objective decisions and ensuring all legal requirements are complied with properly.

Executive Summary

- Termination of an employment agreement by mutual agreement of the employee and employer is usually the most efficient and legally certain method
- Russian law provides for various instruments that can be utilized to cut labour costs, including reduced working hours, reduced working weeks, salary reductions and redundancy
- Redundancy under Russian law is a complex and lengthy process, with many pitfalls which can lead to additional time, cost and uncertainty

Termination by mutual agreement

Using a mutual agreement (ie an agreement signed by the employee and the employer), particularly where the mutual agreement provides the employee with the same financial compensation that would be payable if the employee had been made redundant, is usually the most efficient and legally certain way of terminating a Russian law employment agreement.

Reductions in salary, working hours or working weeks

All three of these methods are effective to cut labour costs, although which one is most appropriate and how to introduce it properly will depend on the circumstances (eg it is likely not to be possible to have a shortened working week of four days for a factory that needs to be running non-stop). All of these methods require amendments to the employment agreement, and therefore the consent of employees, as well as amendments of other labour related documents (eg staff schedules).

Redundancy

Redundancy is generally not recommended due to its complexity, long duration and potential hidden risks. Redundancy also tends to come as a significant shock to a workforce that leaves the remaining staff feeling uncertain

and vulnerable. However, it may be the only viable option available to achieve the necessary labour cost savings.

Preparatory measures

To successfully implement a redundancy program under Russian law requires up to date and accurate internal employment regulations in the Russian language (eg there needs to be consistency throughout staff schedules, employment contracts, personal employment books and other documents where there is reference to positions, names, etc). Quite often the internal regulations and documentation of a company need to be reviewed and updated before the start of a redundancy program.

Basic steps

- Reviewing internal documentation in respect of affected positions or employees;
- Checking pre-emptive rights of employees holding the same position by internal commission;
- Consultations with trade unions in respect of redundant trade union members, if applicable;
- Two months' notice to respective employees and offer of suitable alternative employment during the notice period;
- Dismissal after the notice period or previously by employee's consent; and,
- Redundancy payments to former employees who registered as unemployed (up to three months). There are increased redundancy payments for employees working in Far North regions of Russia to include up to six months (eg Karelia, Siberia, Far East).

The most difficult phase of a redundancy program is the evaluation and comparison of employees holding the same position so as to determine who will be made redundant and who will not.

Limitations

There are other issues to take into account to a proposed redundancy:

- It is not possible to include in a redundancy program employees who fall within a "socially protected" category (eg a mother with a child under three years of age);
- Redundancy of trade union members can require prior notifications and consultations with the relevant trade unions, which may be hampered due to the confidentiality surrounding membership of a trade union; and,

- Employers have a duty to try and find suitable alternative employment within the company for employees they have made redundant, often meaning there needs to be a freeze on filling vacant positions with external candidates.

Redundancy is a complex area of Russian law. It is therefore important to have independent legal advice to ensure all the pitfalls are avoided and the redundancy program is implemented successfully in the most time and cost effective way possible.

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