

Transferring enterprises into temporary state administration if security is not ensured

FAO heads and employees of companies operating in the fuel and energy sector, industry, communications, utilities, transport, logistics infrastructure (including transport and logistics complexes), energy (including nuclear energy), life-support systems, critical and potentially hazardous facilities, as well as other companies of particular importance for ensuring the security and economic stability of the Russian Federation and the livelihoods of the population

Pepeliaev Group advises that the Russian President has issued a Decree granting to the Russian Government powers to introduce temporary administration with respect to enterprises in cases where requirements to safeguard security have not been complied with (the Decree)¹.

The Decree introduces the possibility for temporary administration to be established over the property of business entities in the following cases:

- measures have not been taken, or have not been taken on a timely basis, to ensure the security of critical infrastructure (CI) facilities;
- established security requirements have been violated;
- a threat has been created to the security or normal functioning of CI facilities;
- their functioning has not been restored or has not been restored on a timely basis.

In the Decree, business entities are defined as organisations and individuals meeting the criteria of article 4(5) of Federal Law No. 135-FZ dated 26 July 2006 "On Protecting Competition", as well as persons controlling Russian legal entities that are foreign state or intergovernmental institutions, foreign organisations, foreign nationals or stateless persons.

CI facilities include: fuel and energy sector facilities; industrial facilities; communications facilities; utilities, transport and logistics infrastructure facilities; energy facilities, including nuclear energy facilities; life-support

¹ The Russian President's Decree No. 604 dated 24 August 2026 "On Measures to Ensure the Security of Critical Infrastructure Facilities of the Russian Federation".

facilities; and critical and potentially hazardous facilities. In addition, other facilities are included that are of particular importance for the security and economic stability of the country and the livelihoods of the population.

A decision to introduce temporary administration is made by the Russian Government pursuant to an instruction from the Russian President. Temporary administration may be established with respect to:

- all or part of the movable and immovable property of a business entity located in Russia;
- securities and membership interests in the issued capitals of Russian legal entities owned by it;
- property rights owned by it.

By default, the functions of the temporary administrator are assigned to the Federal Agency for State Property Management, unless another person is designated by a separate decision of the Russian Government. The administrator exercises the powers of the owner of the property, except for the right to dispose of it.

Temporary administration is terminated by a decision of the Russian Government pursuant to an instruction from the Russian President.

The Decree entered into force on the date when it was officially published (24 August this year).

Pepeliaev Group's Comment

The Decree does not specify which particular types of security are covered, limiting itself to general wording regarding the requirements for ensuring the security of CI facilities. It can only be assumed that all types of security are covered, including information security, counter-terrorism security, industrial safety and fire safety. Each of these areas is regulated by separate legislation.

In view of the circumstances in which the Decree was adopted, namely the numerous drone attacks, the question arises as to how relevant the existing security requirements are today and whether the regulation focuses exclusively on compliance with them. In this regard, the Decree may be regarded as a signal that the state has higher expectations as regards the level of the actual, rather than merely formal, protection of facilities, including the need for business to develop and implement its own effective measures to counter unmanned aerial threats, with such measures going beyond the minimum security standards the law establishes.

In addition to the uncertainty regarding the types of security covered, the Decree contains other evaluative terms that create legal uncertainty. Thus, the grounds for introducing temporary administration are formulated in terms of open-ended concepts such as “creating a threat to the security or normal functioning” of facilities and measures being taken or functioning being restored “not on a timely basis”, without particular time limits or criteria for the materiality of a violation being specified. This means that the taking of a decision as to whether there are grounds for temporary administration will be discretionary. Meanwhile, the Decree provides neither for it to be mandatory to notify the business entity of the violations identified, nor for it to be possible to remedy them before temporary administration is introduced, nor for clear procedural safeguards for challenging the relevant decision of the Russian Government.

It is also worth noting that Federal Law No. 398-FZ dated 31 July 2023 has introduced into the Russian Criminal Code article 217.3, which establishes liability for not complying with requirements for ensuring counter-terrorism protection. A criminal sanction will apply to persons who have been held administratively liable on more than occasion for a similar act under article 20.35 of the Russian Code of Administrative Offences.

What to think about, what to do

Companies whose activities involve CI facilities should prepare in advance documentary confirmation that they have taken all necessary security measures, including measures to counter attacks by unmanned aerial vehicles. The grounds for introducing temporary administration are formulated in broad and evaluative terms, and having such evidence available reduces the risk of this procedure being initiated while making it easier to safeguard the company’s position if there is a dispute.

Help from your adviser

Pepeliaev Group’s specialists are ready to assist with preparing the evidence base to confirm that the security requirements have been properly met on a timely basis. They will draw up internal incident response procedures, and will represent the company in its dealings with the competent authorities should disputes arise in connection with how the Decree is applied.

Контактная информация



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