

NEW YORK STATE EMPIRE STATE DEVELOPMENT CORPORATION UPDATES “ESSENTIAL BUSINESS” GUIDANCE

Hodgson Russ Labor & Employment Alert
March 25, 2020

Last week, Governor Cuomo issued Executive Order 202.8, which required businesses to reduce their in-person workforce at all work locations within New York State by 100% by March 22nd at 8 p.m. Any business or entity that qualifies as “essential” or that provides “essential services or functions” is exempt from the in-person restrictions.

The New York Empire State Development Corporation (“ESDC”) previously issued guidance establishing the categories of businesses and industries that are considered “essential” under Executive Order 202.8. ESDC has now modified its original guidance by both adding and removing the “essential business” designation from certain categories of employers, as indicated below.

The following businesses have been **added** to the list of essential businesses (i.e., the following categories are now *exempt* from the in-person workplace restrictions):

- Hotels and places of accommodation;
- Manufacturing agents (included with the food processing category under essential manufacturing); and
- Services related to financial markets.

The following businesses have been **removed** from the list of essential businesses, suggesting that ESDC no longer considers them exempt from the in-person workplace restrictions:

- Dry cleaning;
- Animal care or management; and
- Doormen.

Other less prominent, but equally important changes have been made—for example, only “emergency dental” services are exempt under the new guidance whereas all “dentist offices” were originally exempt. Employers are encouraged to review the revised guidance to assess the impact it may have their ability to operate in the current climate. The revised guidance can be found **here**.

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The ESDC has also published a FAQ document explaining the Governor’s Executive Orders, which can be accessed [here](#). The FAQ also encourages employers to check back often, as the FAQ will be updated “regularly.”

Some employers may be encouraged to learn that the current version of the FAQ document confirms that employers may allow a single employee to report to a non-essential closed business temporarily for the purpose of performing a specific task (such as picking up the mail) so long as the employee will not come into contact with other people.

Hodgson Russ is continually monitoring this and all other aspects of the Coronavirus pandemic as it affects employers. If you have any questions, please contact a member of our Labor & Employment team. **Please check our Coronavirus Resource Center to view many other alerts our attorneys in various practice areas have published on topics related to the pandemic.**

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