Giving you global oversight
Our quarterly Global Employment and Labor Law Update
Governments in many countries are now starting to move forward with legislation that was delayed as a result of the pandemic, alongside enacting new reforms to take account of the shift in the working landscape. Globally, a number of ongoing pandemic-related developments focus on vaccination and testing, together with new and enhanced laws to protect the health and safety of workers. In addition, we see developments in employment transparency and protection, enhanced employee benefits and equality. In Europe, new and proposed European directives continue to shape many of the reforms on the horizon.

Keeping appraised of new legal developments and maintaining visibility of those on the horizon continues to be critical for those planning and managing people strategies. Drawing on the significant experience and expertise of our teams of lawyers around the world assisting clients with all aspects of employment law, this latest Update provides a summary of the key changes. Please do not hesitate to contact us if you wish to find out more about any of the developments.
Vaccination and testing
In our last edition, we reported on measures in many countries to encourage and, in some cases, mandate testing and vaccination as part of the suite of measures to get employees back to workplaces. This trend has continued in this quarter, including new and anticipated developments such as a right for employers in Denmark to require employees to be tested, mandatory vaccination for care home employees in the UK, new Occupational Safety and Health Administration (OSHA) guidance in the US, regular COVID-19 health checks for certain employees in Lithuania and new government guidance on the fairness of mandatory vaccination policies and their implementation in South Africa.

Whistleblowing
The implementation of the EU Whistleblowing Directive in December 2021 will mark a significant step change. It will have practical workplace consequences for employers operating in Europe and for those multi-nationals applying a one-size-fits-all global whistleblowing policy. With the pace of implementation steps differing across jurisdictions, this is an area that employers will need to continue to monitor closely.

Enhanced benefits
New and enhanced employee family-related benefits have been a feature of reforms in many jurisdictions this quarter. In particular, developments have included extended paternity leave entitlement (France and Romania), additional parental leave for parents of premature babies (Germany), pre-adoption leave entitlement (Kenya), new parental leave rights (Netherlands) and proposed enhanced job security for certain employees who are carers (Russia and Switzerland). In addition, our Update highlights extended bereavement leave entitlement in Belgium, a new general right to statutory sick pay in Ireland and a new right to payment of a guaranteed monthly retirement benefit in Mauritius.

Equality developments
Continuing the trend of jurisdictions enhancing equality requirements and protections, this quarter has seen a proposed new right to protection from vaccine discrimination in Romania and a new law for the real and effective equality of transgender people expected in Spain. Further, new legislation has been enacted in Ireland on gender pay gap reporting.

Transparent and fair terms of employment and regulating new ways of working
A number of jurisdictions have taken steps to improve transparency and fairness of terms of employment and working conditions. In particular, we have seen jurisdictions harmonizing notice periods (Austria) and regulating the use of electronic labour contracts and signatures (China and Romania). In addition, a number of countries continue to legislate for new working arrangements, in particular to regulate remote working (e.g. Poland, Portugal and Spain).

We hope you find the content in this document valuable and that the practical information is useful in managing your global employment challenges. Please do not hesitate to contact us if you wish to find out more.

Diane Gilhooley, Global Head of Employment, Labor and Pensions
dianegilhooley@eversheds-sutherland.com
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**Legal regime of volunteering**
A legal regime has been implemented for volunteering, establishing the rights and duties of both parties (volunteer and promoter entity), including in respect of justified absences.

**Impact date:** 31 July 2021

**Employer implications/action needed:** Employers should note this new legal regime and ensure compliance when promoting volunteer activities. Also, note that absences due to volunteering activities are deemed effective service.

**Employer risk:** Failure to comply with the requirements established in this new legal regime may result in liability for a fine. Further, it may result in claims for the arrangement to be deemed a labour relationship.

**Extension for expired immigration documents**
The immigration documents, such as residence permits, working visas, refugee cards, investor visas or temporary stay visas, of foreign citizens who are absent from the national territory and that have expired after 28 February 2021 are deemed valid until 30 September 2021.

**Impact date:** 5 August to 30 September 2021

**Employer implications/action needed:** Foreign citizens should be aware of the deadline to renew their documentation, which is 5 business days from their entry into the country or from the quarantine period in the country if applicable.

**Employer risk:** Failure to renew the documentation within the deadline may result in the payment of fines or limit the ability to stay in Angolan territory.

**Updated COVID-19 measures**
New preventive measures against COVID-19 have been made, as well as the rules of operation of public and private services, social facilities and other activities. A special protective regime applies for some categories of employees.

**Impact date:** 8 August to 6 September 2021

**Employer implications/action needed:** Employers should note the new preventive measures and adopt measures to ensure compliance.

**Employer risk:** Failure to comply with the preventive measures is a criminal offence. Administrative fines may also apply.
### Austria

**Termination by mutual consent during sick leave (case law)**

If an employee is not able to work due to illness, the entitlement to payment of remuneration shall continue beyond the end of the employment relationship for the period provided by law. This applies even if the employment relationship is terminated by mutual agreement during such inability to work.

The Austrian Supreme Court confirmed that in the case of a settlement in which a termination by notice was retroactively converted into a termination by mutual consent, the employer is obliged to continue to pay remuneration beyond the mutual termination date.

**Impact date:** 22 June 2021

**Employer implications/action needed:** Employers should avoid ending the employment relationship during an employee’s inability to work due to illness or with regard to such an inability to work (the only exception would be a justified termination without notice).

**Employer risk:** If the employer ends an employment relationship during an employee’s inability to work due to illness or with regard to such an inability to work, the employer must continue to pay the remuneration for a certain period of time, even if the employment relationship ends earlier. This rule also applies to all forms of mutual termination.

**Link:** Judgement - RIS - 10ObS67/21g

### Notification to AMS and consensual termination (case law)

Employers must notify the competent regional office of the Labour Market Service (Arbeitsmarktservice (AMS)) if they intend to terminate a certain number of employment relationships exceeding the respective threshold within 30 days. Employer termination with notice shall be legally invalid if given before the notification is submitted, or before the AMS has given its consent.

The Austrian Supreme Court has held that the invalidity rule is only applicable to an employer’s termination with notice. Therefore, if the employment relationship is terminated by mutual agreement (consensual termination) prior to the submission or approval of the AMS, the termination is legally effective.

**Impact date:** 24 June 2021

**Employer implications/action needed:** If the employer wants to end an employment relationship before submitting a notification to the AMS or before it has given its consent, the termination must be mutually agreed.

**Employer risk:** If the employer intends to terminate a certain number of employment relationships exceeding the respective threshold within 30 days, it must not terminate an employee with notice before submitting a notification or before the AMS has given its consent, because the termination would then become legally ineffective. However, it is possible to terminate the employment relationship mutually before submission of the notification or before the AMS has given its consent.

**Link:** Judgement - RIS - 9ObA47/21h

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**Contact**

Silva Palzer  
Partner  
T: +43 15 16 20 12 5  
silva.palzer@eversheds-sutherland.at
Notice periods

Notice periods for blue-collar workers and white-collar workers are to be harmonized. Notice periods applicable to blue-collar workers are often shorter than those that apply to white-collar workers. Under new legislation, the statutory minimum notice periods that employers must give to terminate employment as well as the termination dates will be the same for all workers. The new legislation will apply when an employer or employee gives notice to terminate employment on or after 1 October 2021.

**Impact date:** 1 October 2021 (changed from 1 July 2021)

**Employer implications/action needed:** Employers should check their employment contracts and make any necessary adjustments to take account of the new notice periods and termination dates.

**Employer risk:** If an employer terminates an employee's employment giving an incorrect period of notice or termination date, this can be costly. The employer must pay compensation for notice (Kündigungsentschädigung).

**Link:** [Amendments to General Civil Code, the Agricultural Labour Act 2021 and the Unemployment Insurance Act 1977](#)

Wage and social dumping

The Austrian Law against Wage and Social Dumping (Lohn- und Sozialdumping-Bekämpfungsgesetz) (LSD-BG) is to be amended comprehensively to comply with EU Law.

The main changes relate to:
- redesign of the scope
- more employee rights for long-term postings
- conditions for accommodation
- reporting requirements
- provision of payroll records
- new regulations on administrative penalties
- more rights for the financial police

**Impact date:** Date awaited, but expected to come into force later this year.

**Employer implications/action needed:** Employers should monitor the progress of the regulations entering into force. If the employer has posted employees, they need to check if the LSD-BG applies, and, if so, take appropriate measures to comply with the new regulations.

**Employer risk:** Risks of breaching the LSD-BG include administrative penalties, which will apply to all proceedings pending on the date of entry into force of the new regulations. Non-compliance with formal obligations (e.g. violation of reporting and availability obligations) may result in fines up to EUR 40,000.00. If wages are underpaid, a five-level penalty system has been created based on the amount of wages withheld and, in the case of the last level, on the degree of fault of the employer, with fines up to EUR 400,000.00.

**Link:** [Wage and Social Dumping Prevention Act, Temporary Employment Act and Employment Contract Law Amendment Act](#)
Employment contracts (case law)

The Constitutional Court ruled that the principle of equality is violated when, after more than 2 years of uninterrupted employment through alternating successive fixed-term contracts and replacement contracts, an employee does not benefit from the presumption of employment based on a permanent employment contract.

Impact date: 17 June 2021

Employer implications/action needed: The employer should be vigilant in the event of successive fixed-term employment contracts and replacement contracts. Depending on the circumstances, a court could consider that there is a presumption of a permanent employment contract.

Employer risk: This case highlights the risk of the reclassification of successive fixed-term and replacement contracts into a permanent contract. In the context of the termination of the employment contract, the presumption of a permanent employment contract risks liability for higher compensation.

Link: Weblink to the judgment (in Dutch)

Benefits and pensions – new CBAs

The National Labour Council has published a large number of CBAs, including on the unemployment regime with company allowance (UCA) (which is a form of early retirement that allows older workers to receive, in addition to unemployment benefits, a company supplement paid by the employer until the age of retirement), “end-of-career jobs” (which is a reduction of working time for older employees with benefits paid by the Belgian unemployment office) and unemployment for economic reasons for white collar workers.

Some specific UCA schemes are extended and the age conditions are modified.

Impact date: 1 July 2021 until 30 June 2023

Employer implications/action needed: Before dismissing an older employee, it is advisable to check whether any of the new conditions of the specific UCA schemes are met. Rules should also be verified at sectoral level.

Link: Weblink to an overview of the National Labour Council of all national CBAs (only available in Dutch or French)
Bereavement leave – extension

New provisions extend and ease the taking of bereavement leave in the event of the death of a partner or child. Bereavement leave is extended from 3 days to 10 days.

Impact date: 25 July 2021

Employer implications/action needed: The situations in which employees are entitled to bereavement leave are extended, as is the length of the leave in some cases. The time when bereavement leave can be taken is also more flexible.

Employer risk: There is a financial impact for the employer of the new provisions, since the employee is entitled to continue to receive wages for the full 10 days of leave.

Link: [Weblink to the publication in the Belgian Gazette - Act of 27 June 2021](#)
Electronic labour contracts

New guidelines have been issued in relation to the conclusion of electronic labour contracts (电子劳动合同订立指引).

**Impact date:** 1 July 2021

**Employer implications/action needed:** Employers should review existing procedures in relation to concluding labour contracts and ensure that where an electronic method is used, the following is noted:

- electronic labour contracts must be concluded through an electronic contract management platform;
- before concluding the contract, the employer must inform the employee of the relevant procedures, operating methods, precautions and how to view and download the entire labour contract;
- employers and employees must use the “digital certificate” and “key” issued by the electronic authentication service agency;
- the contract shall only take effect after the employer and the employee sign a reliable electronic signature and timestamp; and
- after concluding the contract, the employer must notify the employee that the contract has been concluded via text message, Wechat, email or APP message.

**Employer risk:** If employers fail to comply with the new guidelines and a dispute arises, the electronic labor contract may be deemed invalid.


Family planning

The revised version of the Population and Family Planning Law (中华人民共和国人口与计划生育法) has been released by the PRC government, with the aim of mitigating the country’s falling birth rates. One of the key elements of this revised version is that couples are allowed to have three children. The state supports local governments to implement relevant legislation/policies on family leave to reflect this.

**Impact date:** 20 August 2021

**Employer implications/action needed:** Employers should review and, where applicable, update family leave polices to grant the relevant maternity/paternity leave and other statutory entitlements to employees who give birth to their third child. Employers should also monitor any ancilliary legislation or policy issued by local government in relation to this third-child policy.

**Link:** Decision of the Standing Committee of the National People’s Congress to amend the Population and Planned Parenthood Law of the People’s Republic of China
Employer’s withdrawal from competition clause (case law)

The Constitutional Court has ruled that an employer is entitled to withdraw from a competition clause without giving a reason if this has been stipulated in the contract. However, the withdrawal must not be abused to the disadvantage of the employee.

Impact date: 21 May 2021

Employer implications/action needed: Employers should ensure that procedures are in place in order that appropriate conduct can be demonstrated where it withdraws from a competition clause. Employers should also check whether the possibility to withdraw from a competition clause has been stipulated.

Employer risk: Withdrawal from a competition clause could be found invalid.

Link: Judgement - decision No. II. ÚS 1889/19

The Kurzarbeit Law – Employment Protection Act

Employers will receive an allowance for any part of employees’ working time during which the employer has been unable to assign work to its employees, equal to 80% of the wage compensation paid. Employers may only benefit from the Kurzarbeit system once it has been activated by the government and subject to specific rules.

Impact date: 1 July 2021

Employer implications/action needed: Employers eligible to claim the allowance should note that the maximum allowance is 1.5 times the average wage in the national economy and must meet also other mandatory conditions (e.g. that employees receive at least 80% wage compensation for the time they do not work).

Employer risk: Where employers do not follow the specific conditions of the Kurzarbeit system, they will not be eligible to claim the allowance.

Amending the minimum wage

A draft government decree has been issued, amending the minimum wage. If passed, the monthly minimum wage will be CZK 18,000 or approximately EUR 710 (now CZK 15,200) and the hourly minimum wage will be CZK 107.10/hour or approximately EUR 4.2/hour (now CZK 90.50/hour).

Impact date: 1 January 2022 (expected)

Employer implications/action needed: Employers are obliged to provide employees with a minimum wage in the specified amount.

Employer risk: If employers do not provide employees with the new minimum wage, they risk a fine of up to CZK 2,000,000 or approximately EUR 79,000.
Testing of migrant workers after entry into Denmark (COVID-19)

Employers who employ migrant workers must ensure that such workers are PCR-tested for COVID-19 after entry into Denmark.

**Impact date:** Until 1 November 2021

**Employer implications/action needed:** Employers must be able to document in writing that a COVID-19 test has been performed in respect of the migrant worker. However the result of the test is not required. The employer must also provide documentation if a migrant worker is exempt from the testing requirement.

**Employer risk:** The Danish Working Environment Authority supervises compliance with the testing requirement. If the Authority finds that an employer is in breach of the requirement for testing, it can impose a fine if the employer does not comply upon an injunction.

Employers’ right to require testing of employees (COVID-19)

Employers may require employees to be tested for COVID-19 and to be informed about the test results.

**Impact date:** Until 1 November 2021

**Employer implications/action needed:** If testing is required by an employer, the employer must be able to objectively justify that decision based either on the interest of limiting the spread of COVID-19 or due to significant operational considerations. An employee who refuses to comply with the requirement to take a test can be met with sanctions following the employer informing the employee in writing of the requirement to be tested.

**Employer risk:** It is important for the employer to ensure it has the necessary objective justification for requiring employees to be tested. In the absence of such a justification, employees may be entitled to claim compensation.

Prevention of infection when employers make housing available to employees (COVID-19)

A number of legal requirements apply to employers who make housing available to employees when two or more employees are accommodated in the same dwelling.

**Impact date:** Until 1 November 2021

**Employer implications/action needed:** Employers making housing available to employees should note the additional requirements to protect against COVID-19 infection, including in relation to access to facilities, social distancing, visible signage and access to soap and rubbing alcohol. Further, employers must prepare a plan on preventing COVID-19 infection during a stay in the home.

**Employer risk:** If the employer fails to comply with the requirements, a financial penalty may be imposed.


**Whistleblowing**

The implementation of the EU directive on the protection of whistleblowers will enter into force.  
**Impact date:** 17 December 2021 to 17 December 2023  
**Employer implications/action needed:** Companies with more than 50 employees must establish a whistleblower system, which means procedures for reporting and following up on offences. Companies with 50-249 employees have until 17 December 2023 to establish a whistleblower system. Companies with 250 employees or more must establish a whistleblower system by no later than 17 December 2021.  
**Employer risk:** A whistleblower who has been victim of reprisals because of a report is entitled to compensation. If the employee’s employment has been terminated by the company, the employee has the right to be re-hired unless this is considered manifestly unreasonable. Criminal liability can be imposed if the legal obligations are not observed.  
Link: [Chapter three: Speaking up - the 2021 deadline for the EU Whistleblowing Directive](#)

**Brexit**

As the EU regulations on free movement no longer apply to UK citizens, UK citizens and their family members who have taken up residence in Denmark before 31 December 2020 must submit an application for a new residence status.  
**Impact date:** 31 December 2021  
**Employer implications/action needed:** To ensure that employees who are UK citizens and who have lived in Denmark since before 31 December 2020 can remain in Denmark, employers should provide support to ensure such employees submit an application for a new residence status by 31 December 2021.  
**Employer risk:** If the deadline for submission of the application is not met, the authorities may reject the application. The employer then risks the employee not having valid immigration status in Denmark.
Piloting variable hours agreements

Under this pilot project, employers may apply variable hours for up to 20% of full working time, i.e. 8 hours per week. Variable hours agreements under this pilot will be valid until the end of 2023.

**Impact date:** Currently no implementation date available.

**Employer implications/action needed:** There is no obligation on employers to enter into variable hours agreements. However, if they do, they should ensure appropriate procedures are in place to comply with the rest and working time regulation established by the Employment Contracts Act.

**Employer risk:** If the regulation is not followed, the agreement is invalid. The standard conditions provided in the legislation regarding employment relations may be deemed to apply.

**Link:** [https://www.sm.ee/et/uudised/valitsus-kiitis-heaks-muutuvtunnikokkulepete-kasutamise-jaekaubanduses](https://www.sm.ee/et/uudised/valitsus-kiitis-heaks-muutuvtunnikokkulepete-kasutamise-jaekaubanduses)
New laws on whistleblowing, casual workers and work-life balance due for implementation

Member States will progressively implement the three outstanding employment directives on: predictable working conditions; work-life balance and whistleblowing.

**Impact date:** 2021-2022

**Employer implications/action needed:** All employers should expect to change their current practices relating to the provision of written statements to employees upon commencing work. Paternity, parental and carers and flexible working policies should be reviewed as national laws are amended to implement the minimum rights under the work-life balance directive. Furthermore, employers should anticipate significant change in whistleblowing regulation in some Member States.

**Employer risk:** It will be for each individual Member State to decide how rights under the directives should be enforced and what the legal sanctions should be for non-compliance. Whatever the legal consequences, there will also be reputational risks for defaulters.

**Links:**
- Summary of each directive
- Guide to implementation

Significant gender / equal pay draft directive

Reflecting an ongoing gender pay gap, the EU has proposed a directive to strengthen equal pay between men and women workers through new pay transparency and enforcement mechanisms. The institutions of the EU must first agree the directive, possibly over the next twelve months, before Member States have two years to implement it locally.

**Impact date:** 2022-2024

**Employer implications/action needed:** If agreed by the EU, employers would need to prepare for greater pay transparency (including a requirement to provide initial salary information to job applicants, a duty to respond to worker requests for pay data and for larger employers to report gender pay gaps and to act on unjustified inequalities in cooperation with workers’ representatives), a prohibition on pay history questions at recruitment and a greater focus on enforcement, including on disclosure during litigation and increased penalties.

**Employer risk:** If agreed and subject to the standards set by the directive, it will be for each individual Member State to decide how rights should be implemented locally and will be a significant change in some jurisdictions. The directive is currently drafted widely in terms of pay (to include a broad concept of remuneration) and scope (to include workers as defined in the EU) and contains measures to protect privacy. Whatever the legal consequences, there will also be reputational risks for employers as well as the threat of being denied public contracts (the directive proposes making equal pay compliance a condition in public contracts).
Initiatives on platform workers and on adequate minimum wages

The EU is consulting on taking measures to ensure that: people working through digital platforms have decent working conditions; and EU competition rules do not prevent collective bargaining by vulnerable self-employed individuals.

In addition, a draft Directive which aims to provide a framework to improve the adequacy of minimum wages across the EU is awaiting feedback from the EU Parliament, expected in September or October 2021.

Impact date: 2022-24

Employer implications/action needed: Platform workers initiatives: businesses reliant upon platform workers and self-employed contractors should monitor the EU’s proposals as they develop.

Minimum wage initiative: the proposal does not set an EU-wide minimum wage. However, if agreed, employers should anticipate greater focus on any gaps in Member States’ minimum wage provision (whether by collective bargaining or otherwise), the level of such wages and how they are enforced.

Employer risk: In the immediate term, no change. However, if both are agreed by the EU next year (2022), they should be risk-assessed by employers of lower paid employees and self-employed contractors.

The minimum wage initiative may be delayed, following objections from both Denmark and Sweden reflecting concerns over how it will impact on their collective bargaining pay systems.
Re-employment obligation (case law)

The Supreme Court ruled that the employer did not breach its re-employment obligation when the employer decided, after the end of the re-employment obligation period, to take measures to recruit new employees. On the facts of this case, the timing of the employer’s decision regarding the recruitment of new employees did not amount to an attempt to circumvent the re-employment obligation.

Impact date: 10 June 2021

Employer implications/action needed: This ruling is a useful reminder that employers recruiting new employees in close proximity to the end of a re-employment obligation period should ensure that there is appropriate evidence of the decision-making process to demonstrate that there has been no attempt to circumvent the obligation.

Employer risk: In the event that the re-employment obligation is breached, the employer may be obliged to compensate the employee for damages incurred by the breach of the obligation.

Link: [Link to the judgement]

Application of generally-binding collective agreement (case law)

The Supreme Court ruled that a generally-binding collective agreement is defined according to the employer’s main line of business. In this case, the employer’s main line of business meant that the collective agreement in the civil engineering sector applied to all employees of the employer. The subsidiary activity of transport work in a port could not be regarded as a separate and independent part of the business, meaning that a separate collective agreement for stevedoring did not apply to the employees that carried out such work.

Impact date: 14 June 2021

Employer implications/action needed: This ruling provides useful confirmation for employers on the identification of applicable collective agreements. In light of this ruling, employers may wish to review the applicable collective agreement where subsidiary business activities are undertaken.

Employer risk: In the event that the collective agreement applied by the employer is found to be incorrect, the employer may be obliged to compensate employees for damages under the correct collective agreement, such as unpaid salary.

Link: [Link to the judgement]
Workplace safety offences and working hours (case law)

The Supreme Court ruled that a breach of the provisions of the Working Time Act on the maximum amount of overtime did not amount to a breach of workplace safety regulations under the Criminal Code of Finland. However, the employer’s representatives were found liable for workplace safety offences as they had breached their obligations to take care of the safety and health of employees by assigning the employees significant overtime. The employer’s representatives were also sentenced for a working hours offence as they had failed to keep a record of working hours.

Impact date: 23 June 2021

Employer implications/action needed: Employers operating overtime should ensure that appropriate procedures are in place to take care of the health and safety of employees. Employers should ensure that overtime is not excessive and record working hours.

Employer risk: Employers should be aware that by assigning employees significant overtime, the employer’s representatives may be deemed to have breached their obligations to take care of the safety and health of employees, with the risk of a criminal penalty. It does not matter whether employees have worked overtime on their own initiative.

Link: Link to the judgement
**Break time / effective working time (case law)**

The French Supreme Court held that the employee's obligation to remain contactable on a company mobile phone is not sufficient to consider that break time as working time. The mere fact that the employee must keep a mobile phone with them during a break in order to be able to respond to urgent contact from the employer, if necessary, is not sufficient to characterise it as an obligation to remain at the employer’s disposal or to prevent the employee from attending to their personal affairs.

**Impact date:** 2 June 2021

**Employer implications/action needed:** No action is required by employers in response to this decision.

**Link:** Judgement - French Supreme Court, 2 June 2021, no 19-15.468 FS-D

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**Paternity leave**

The duration of paternity leave has been increased to 25 days (32 days in case of multiple births) from the previous 11 (or 18) days. The 25 (or 32) days of paternity leave includes 4 mandatory days, which must be taken immediately after the birth leave ("congé de naissance"). Birth leave continues to have a duration of 3 days.

**Impact date:** 1 July 2021

**Employer implications/action needed:** The increased leave applies to parents of children born and adopted since 1 July 2021 (or born before that date where the birth was expected on or after 1 July). Employers should review and update paternity leave policies to reflect the increased entitlement.

**Links:**
- LAW No. 2020-1576 of 14 December 2020 on the financing of social security for 2021
- Amended Labour Code

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**Employer’s duty of care (case law)**

The French Supreme Court has clarified the position regarding duty of care. In particular, that an employee can automatically claim for breach of duty of care ("faute inexcusable"), where the employee had warned the employer of the risks to their health or safety before such risks actually materialised. In this case, the employee had warned the employer that they had been subjected to death threats through an anonymous letter, before being attacked at the workplace.

**Impact date:** 8 July 2021

**Employer implications/action needed:** Employers should note the potential for liability where they have been warned of a health and safety risk.

**Employer risk:** Liability for breach of duty of care could result in compensation being awarded, including an additional lump-sum through an increase to the permanent disability pension; full compensation for the harm suffered (e.g. pain and suffering); and payment of an additional contribution for occupational accidents to the social security authorities.
Benefits in kind and business expenses

The position regarding expenses for business meals has been clarified. Expenses incurred by the employee for business meals for which a receipt has been provided constitute professional expenses, except in the case of obvious abuse. Obvious abuse is assessed based on the employee’s duties/objectives and the importance of prospecting or representation to such duties/objectives.

**Impact date:** 1 August 2021

**Employer implications/action needed:** Employers should review arrangements regarding professional expenses to ensure the possibility of deductible expenses for the calculation of social security contributions. In addition, it should be noted that from 1 January 2022, in the absence of any reference to the specific flat-rate deduction in the branch-wide or company-wide collective agreement or in the absence of an agreement concluded with the CSE, employers must obtain the express consent of employees to benefit from the deduction each year.

**Employer risk:** Enforcement is by the Union for the Collection of Social Security Contributions and Family Allowances (URSSAF). For the period up to 31 December 2022, the URSSAF will notify a “request for compliance” in the event of a breach. More stringent enforcement could arise thereafter.

**Link:** [Official Bulletin for Social Security](#)

Environmental issues and social dialogue

The law on combating climate change and strengthening resilience to its effects has been enacted. Implementing decrees are expected.

**Impact date:** 25 August 2021

**Employer implications/action needed:** Environmental considerations are becoming part of the social dialogue in companies in France. Employers should note that Social and Economic Committees will be issuing opinions on the environmental consequences of their company’s activities.

**Link:** [LAW No. 2021-1104 of August 22, 2021, on the fight against climate change and strengthening resilience to its effects](#)
End-of-career medical visit

For employees whose voluntary or forced retirement is effective as from 1 October 2021, new requirements apply regarding the end-of-career medical visit for employees subject to reinforced individual monitoring regarding their state of health. Reinforced individual monitoring applies to certain employees due to their assignment to a high-risk position, or for those who have benefited from such monitoring during their professional career.

Impact date: 1 October 2021

Employer implications/action needed: The employer must organise the end-of-career medical examination with the occupational doctor before the employee retires. This applies to:
- workers who have benefited from reinforced individual monitoring regarding their state of health;
- workers who, prior to 1 January 2017, benefited from specific medical monitoring due to their exposure to one or more risks.

Employer risk: Violations are punishable by a fine of EUR 7,500 for 5th class offences. In the event of a repeat offence within 3 years, the penalty is increased. Employees may also obtain damages if they establish that the employer’s failure to comply with the obligations regarding occupational medicine has caused them harm.

Link: Decree No. 2021-1065 of 9 August 2021 on the medical examination of workers before their retirement

COVID-19 – updated measures

The regime for exiting the state of health emergency has been extended to 15 November 2021. Measures continue to be adjusted, including:
- restaurants - the 50% capacity limit, the requirements to eat alone or in groups of no more than six people and distancing between tables, have ended;
- telework - no longer a requirement, as the government strongly encourages the return of employees to face-to-face work, provided that measures to protect against COVID-19 are complied with at the workplace.

Impact date: Until 15 November 2021 (regime for exiting the state of health emergency)

Employer implications/action needed: Employers should note the adjusted requirements.

Link:
- National protocol to ensure the health and safety of employees
- LAW No. 2021-1040 of August 5, 2021, on the management of the health crisis
Occupational health

New legislation to strengthen occupational health prevention has been adopted by the French Parliament with a view to improving working conditions and quality of life in the future.

**Impact date:** 31 March 2022 (expected - awaiting implementing decrees)

**Employer implications/action needed:** Employers should note that the new legislation sets out the provision of services to be provided by “prevention and occupational health services” (STPS). The STPS will, where appropriate, in its task of advising employers, workers and their representatives, take account of the impact of telework on health and on the organisation of work.

**Link:** [LAW No. 2021-1018 of August 2, 2021 to Strengthen Prevention in Occupational Health](#)
Burden of presentation and proof in overtime proceedings (case law)

The Fifth Chamber of the Regional Labor Court held that the burden of presentation and proof in overtime proceedings lay with the plaintiff. In this case the plaintiff, who had worked as a delivery driver, claimed overtime pay for a period of 1.5 years. The employer had failed to record all of the worker’s working hours, including break times, and was therefore unable to challenge the worker’s evidence. Nonetheless, the Court found that the worker’s evidence based on technical time records alone was insufficient to overcome the burden of presentation and proof and establish that the defendant was liable.

Impact date: 6 May 2021

Employer implications/action needed: Employers should implement a system for time recording to avoid dispute over whether overtime has occurred.

Employer risk: Without time recording, employers may not be able to challenge evidence that overtime has occurred, with a risk that the employer is deemed liable to pay the remuneration for the overtime.

Link: LAG Niedersachsen, judgment of 6.5.2021, 5 SA 1292/20

Vacation entitlement during short-time work (case law)

The Labour Court in Osnabrueck held that during short-time work, there is no pro rata reduction of vacation entitlements.

Impact date: 8 June 2021

Employer implications/action needed: Employers should review vacation entitlement policies and procedures to ensure that reductions of vacation entitlements are not made in the case of short-time work.

Employer risk: If the employer does not grant the respective vacation, the vacation entitlements may be transferred to the next calendar year.

Link: Osnabrück Labour Court: Judgment of 08.06.2021 – 3 Ca 108/21

Appointment of a confidant

If an employee has been on sick leave continuously or repeatedly for more than six weeks within one year, the employer is obliged to offer an operational integration management programme (BEM) and carry it out with the consent of the person concerned. Following a legislative change, employees who participate in a BEM will now be able to appoint a confidant and involve them in the process.

Impact date: 10 June 2021

Employer implications/action needed: Employers should review and update their BEM processes to allow the participation of a confidant.

Employer risk: A dismissal due the sickness of an employee could be deemed invalid in a case where the BEM is invalid. For this reason, employers should consider repeating the BEM.

Link: Social Code Ninth Book – Rehabilitation and Participation of Persons with Disabilities
**Works Council Modernisation Act**

The Act simplifies the process for the election of works councils in companies with up to 100 employees and strengthens the works council rights regarding professional training and mobile work. Other provisions include:

- protection from dismissal for employees engaging the works council election process;
- a permanent option to hold virtual works council meetings;
- changing the minimum voting age;
- co-determination requirements in the organisation of certain types of work.

**Impact date:** 18 June 2021

**Employer implications/action needed:** No specific action needed, however employers should familiarise themselves with the new provisions.

**Employer risk:** No specific risk. However, employers should consider that a new co-determination is introduced for mobile working.

**Link:** [Works Council Modernisation Act](#)

**COVID-19 Occupational Health and Safety Regulation**

This temporary Regulation, which was due to expire at the end of June 2021, has been extended and amended. The key points are:

- employers must continue to offer rapid/self-testing in their establishments bi-weekly for all those working in attendance;
- operational hygiene plans must continue to be prepared; and
- employers must provide medical face masks where other measures do not provide adequate protection.

The strict requirement to offer remote working, and the mandatory requirement of a minimum of 10m² per person in rooms used simultaneously by other people, no longer apply.

**Impact date:** 1 July to 10 September 2021

**Employer implications/action needed:** Employers must carry out risk assessments at the workplace in accordance with the amended Regulation.

**Employer risk:** The responsible occupational health and safety authorities can enforce compliance by means of official orders and, if necessary, also punish violations with a fine.

**Link:** [SARS-CoV-2 Occupational Health and Safety Ordinance](#)
**Vacation days and quarantine due to COVID-19 infection (case law)**

The Labour Court held that there was no requirement to grant vacation days in the case of quarantine due to COVID-19 infection where there was no certificate of incapacity for work. In this case, the employee was due to take vacation leave. However, due to a COVID-19 infection, the employee had to instead go into quarantine by order of the authorities. Although there is a statutory entitlement to additional leave (under the Federal Leave Act) in the case of incapacity, such entitlement requires a certificate of incapacity for work. There was no such certificate in this case and the official quarantine order was not equivalent to a certificate.

**Impact date:** 7 July 2021

**Employer implications/action needed:** No action is needed by employers in light of the ruling. However, the case is a useful reminder of the requirements for the entitlement to additional leave under the Federal Leave Act in the context of quarantine due to COVID-19 infection.

**Employer risk:** No specific risk. However, employers should always insist on certificates of incapacity for work before granting any additional vacation.

**Link:** [Labour Court Bonn – File number 2 Ca 504/21 of 07.07.2021](#)

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**3G Rule (COVID-19)**

A new COVID-19 decree between the government and the federal states has come into force. There is no longer a multi-stage catalogue of restrictive measures. Instead, a relevant limit value at an incidence of 35 applies, at which point the so-called “3G” rule kicks in.

If reaching an incidence of 35, certain restrictions and testing requirements apply to un-vaccinated, un-tested or persons who have not had COVID-19. This means that even with higher infection rates, fully vaccinated, recovered and tested people can still enjoy many social activities. Masks remain compulsory on buses and trains, in shops, indoors and outdoors at major events.

**Impact date:** 23 August 2021

**Employer implications/action needed:** It is yet to be clarified whether and the extent to which the 3G rules also apply to employees and how they should be handled by companies. Although employees are not expressly covered in the wording of the new decree, certain events may be applicable to employees, such as larger events or increased contact with clients.

**Employer risk:** Employers should await clarification of the applicability of the new decree to the workplace prior to taking action.

**Link:** [Link to bundesregierung.de](#)
Parental allowance

Each parent is entitled to up to 3 years of parental leave after the birth of a child. In addition to the option of not working during parental leave, in the latest reform the entitlement of employees to work part-time has been extended to up to 32 hours per week. Parents of premature babies will receive additional parental leave, depending on how long before the expected date the child is born:

- 6 weeks early, 1 additional month of parental allowance;
- 8 weeks early, 2 additional months of parental allowance;
- 12 weeks early, 3 additional months of parental allowance;
- 16 weeks early, 4 additional months of parental allowance.

Top earners are not entitled to parental allowance. The latest reform has adjusted the income limits down from EUR 500,000 per annum for couples to EUR 300,000. For single parents, the limit remains at EUR 250,000 per annum.

Impact date: 1 September 2021

Employer implications/action needed: Employers should review parental leave policies and procedures to ensure compliance with the updated provisions.

Employer risk: No significant risk. Employers should quickly adapt to the new requirements to avoid lawsuits.

Link: [Link to familienportal.de]

Short-time allowance

The current increase in short-time allowance of 70 or 77 % from the fourth month of receipt and 80 or 87 % from the seventh month of receipt will be extended until 31 December 2021 for all workers who have become entitled to short-time allowance by 31 March 2021.

Impact date: Until 31 December 2021

Link: [Link to bmas.de]
Penalty clauses in employment contracts (case law)

The Court of Appeal has adopted the UK Supreme Court’s test in assessing whether a contractual clause is a penalty and is therefore unenforceable. Hong Kong courts will now find a clause to be a penalty and unenforceable if it is a secondary obligation that “imposes a detriment on the contract-breaker out of all proportion to any legitimate interest of the innocent party” in enforcing the contract.

Impact date: 11 June 2021

Employer implications/action needed: This new approach to penalty clauses provides more latitude for employers and employees to agree on termination clauses in their contracts. In particular, the Court of Appeal has construed a payment in lieu of notice clause for the termination of a contract as a primary obligation rather than a secondary obligation, which makes it not susceptible to be challenged as a penalty.

Employer risk: None. Employers may now be more confident that payment in lieu of notice clauses will be enforced by the Hong Kong courts.

Link: Hong Kong Court of Appeal moves away from the genuine pre-estimate of loss test for penalty clauses in Hong Kong

Expansion of employees’ compensation to cover “extreme conditions”

A new Ordinance extends the protection of the current Employees’ Compensation Ordinance to cover employee injuries or deaths sustained as a result of an accident when commuting to or from work during an “extreme conditions” announcement. The “extreme conditions” announcement is part of a warning system introduced in 2019, which may be made by the government following a super typhoon or other natural disaster.

Impact date: 2 July 2021

Employer implications/action needed: Employers should review their employees’ compensation insurance policy to ensure that their policy also covers liability for “extreme conditions” announcements.

Employer risk: Employers may have to bear the cost of claims if their insurance cover has not been updated.

Link: The Employees’ Compensation (Amendment) Ordinance 2021 gazetted – Expansion of ECO Coverage to “Extreme Conditions”

Increased penalties for employing overstayers in Hong Kong

A new immigration Ordinance has come into force. One of the most significant changes concerns combating unlawful employment through: (i) expansion of unlawful employment to cover overstayers; (ii) increasing the maximum penalty for employers who employ illegal workers; and (iii) personal liability for officers of corporate employers.

Impact date: 1 August 2021

Employer implications/action needed: Employers are advised to review their internal employment policies to ensure that their employees have the right to work in Hong Kong. In particular, employers should track the visa expiry dates of their employees. Employees without a current employment visa or other documents entitling them to work for the employer in Hong Kong must be suspended from work until the renewal of the employment visa is granted.

Employer risk: Employers may face increased criminal penalties for hiring workers without the right to work in Hong Kong.

Link: The Immigration (Amendment) Ordinance 2021 – Increased Penalties for Employing Overstayers
Social contribution tax and vocational training contribution

The government plans to reduce the social contribution tax rate by half a percentage point from 15.5% to 15%. In parallel, the government will phase out the vocational training contribution.

Impact date: 1 July 2022

Employer implications/action needed: No actions by employers are required at this time.

Link: Bill no. 16118

Derogation from the provisions of the Labour Code on teleworking during the period of the state of emergency

Updated legislation allows employers and employees to agree a derogation from the provisions of the Labour Code on teleworking during the state of emergency and extends the group of jobs that can be performed remotely during this period. Further, rules on labour safety for teleworking are defined in more detail. The provisions on teleworking also apply if employees perform work remotely for only part of their working time.

Impact date: From 2 July 2021 until the end of the state of emergency

Employer implications/action needed: Employers should note the updated temporary provisions regarding teleworking. If teleworking arrangements are to be agreed, the terms must be confirmed in writing in the employment contract.

Link: Modified Government Decree No. 487/2020 (11.XI.)

Minimum wage

Negotiations are underway between the government and employers on next year’s minimum wage and guaranteed minimum wage increases. It is expected that the mandatory minimum wage will rise to HUF 200,000 (circa EUR 580) and the guaranteed minimum wage to HUF 260,000.

Impact date: From 2022

Employer implications/action needed: No actions by employers are required at this time. Once the new minimum wage rates are confirmed, employers should review wage rates to ensure compliance.

Employer risk: Any suspected breach of the minimum wage requirements can result in labour inspection proceedings. The employment supervisory authority is obliged to impose a fine if minimum wage provisions are infringed. Employees may also initiate court proceedings to claim compensation.
Gender pay gap reporting

New legislation requires employers to publish information showing whether there are differences in remuneration referable to gender and, if so, the size of such differences. Where differences in remuneration exist, an employer must provide reasons and details of measures taken or proposed to be taken, to eliminate or reduce such differences.

The legislation, which covers all public sector bodies, will apply to employers with over 250 employees. Within 2 years it will apply to employers with over 150 employees and within 3 years it will apply to employers with over 50 employees.

Impact date: 13 July 2021

Employer implications/action needed:
- identify relevant employee ‘groupings’ across their business and review payroll data. Account for differences in remuneration referable to gender where necessary;
- assess whether a gender pay gap exists in the organisation, and if so, consider steps on how to reduce it;
- consider introducing training for payroll and HR staff where appropriate;
- review HR policies and update recruitment practices to identify and address unintentional gender bias where necessary;
- ensure that sufficient technology is in place to capture the necessary data and assign this new workflow to internal channels within the organisation.

Employer risk: Sanctions will apply for non-compliance. Potential breaches may be investigated and the Irish Human Rights and Equality Commission may apply to the Circuit Court or High Court for an order directing compliance. Employees will be able to make a claim to the WRC where an employer breaches the new requirements.

Link: Gender Pay Gap Information Act 2021

Public hearings and removal of anonymisation

Updated legislation allows for public hearings and the removal of the default anonymisation of adjudication cases, including hearings under employment rights legislation. Additional changes include provision for WRC adjudicators to take evidence on oath or affirmation, a new offence of giving false evidence under oath and provisions on revoking the appointment of an adjudication officer.

Impact date: 22 July 2021

Employer implications/action needed:
- Employers should review their general litigation strategy in light of the changes. All hearings under employment rights legislation will now be open to the public and published decisions will no longer be anonymised. Mediation services will continue to be held in private and may therefore be a preferred method of resolving disputes in certain circumstances.

Employer risk: Criminal convictions may be imposed on those who provide false evidence under oath or affirmation in hearings under employment rights legislation. Further, additional costs in WRC proceedings may be incurred if they become longer and more formal than the current system. The identification of employers and employees in published decisions may give rise to public relations or reputational risk.

Link: Workplace Relations (Miscellaneous Provisions) Bill 2021
Sick leave and pay

New legislation will introduce a general right to statutory sick pay in Ireland. The legislation will be phased in over a 4 year period, beginning with the introduction of a right to 3 paid sick leave days per year in 2022 paid for by the employer, rising to 5 days in 2023, 7 days in 2024 and 10 days in 2025.

Impact date: Expected in Q1 of 2022

Employer implications/action needed: Employers should start to review sick pay policies and procedures in anticipation of the new right. Employees must obtain a medical certificate and have completed 6 months’ service with the employer to be entitled to statutory sick pay.

Employer risk: Once the new right comes into force, sick pay must be paid by employers at a rate of 70% of an employee’s wage, subject to a maximum of €110 per day. To the extent employers are not already providing sick pay at or above such limits, employers should account for potential sick pay liability. The right to sick pay will be legally enforceable by employees through the Workplace Relations Commission (WRC) and the courts.

Link: Sick Leave Bill 2021
**Vulnerable workers**

The period during which vulnerable workers (i.e. those certified as having reduced immunity) can be subject to exceptional health reviews has been extended. Provision allowing vulnerable workers to undertake different roles within the same category/classification or specific training activities, and/or work from home is also extended.

**Impact date:** Until 31 October 2021

**Employer implications/action needed:** Where an employer does not have a competent doctor already appointed for the purpose of carrying out exceptional health reviews in order to determine suitability to perform working activities, it can appoint one for the emergency period or it can make a request to the National Institute for Insurance against Accidents at Work (INAIL), which will make available its competent doctors.

**Link:** gazzettaufficiale.it

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**Ban on dismissals**

The ban on dismissals continues to apply for companies eligible for furlough support Assegno Ordinario or Cassa Integrazione Guadagni in Deroga (CIGD) and has been extended to companies in the textile sector. Additionally, from 1 July 2021 until 31 December 2021, companies entitled to furlough Cassa Integrazione Guadagni Ordinaria (CIGO) cannot dismiss employees for the duration of the furloughed period.

**Impact date:** Up to 31 October 2021/31 December 2021

**Employer implications/action needed:** Employers should note the extended periods for the ban on dismissals and take account of this in its people strategy management.

**Employer risk:** A dismissal in breach of and during the period of the ban will be deemed null and void. Employers should be aware that, if employees challenge their dismissals, they may be entitled to reinstatement or payment of the relevant indemnity equal to 15 monthly instalments.

**Link:** gazzettaufficiale.it

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**Working from home**

Employers can continue to implement working from home in the absence of an individual agreement with employees.

**Impact date:** Until 31 December 2021

**Employer implications/action needed:** The extension of this provision will continue to facilitate working from home. However, employers should bear in mind that they are still required to provide employees with information regarding health and safety whilst working from home.

**Link:** Smart working (cliclavoro.gov.it)
Pre-adoptive leave

Parents who are in the process of adopting children are now eligible for a month of leave from work with full pay. The leave applies where a child is placed in the continuous care and control of the employee, from the date of placement of the child.

**Impact date:** 15 April 2021

**Employer implications/action needed:** Employers should review and update employee contracts and relevant human resource manuals to provide for pre-adoptive leave and ensure that employees are aware of the requirements for the leave to be granted.

**Employer risk:** Failure by employers to allow employees to take pre-adoptive leave is an offence and can result in a fine not exceeding KShs. 50,000 and/or imprisonment of up to 3 months. In addition, failure to allow the leave amounts to discrimination, giving the right for employees to bring a claim against the employer.

**Link:** Employment (Amendment) Act, 2021

Termination of probationary contracts at will (case law)

The Employment and Labour Court has determined that a provision in the Employment Act that denies employees who are on probation the right to notice and a fair hearing before their contracts are terminated on grounds of misconduct, is unconstitutional on grounds of discrimination.

**Impact date:** 30 July 2021

**Employer implications/action needed:** Employers should note that employees on probation should be given notice and a fair hearing before their employment is terminated. Employers should therefore review and update employment contracts and HR manuals to ensure they are in line with the law.

**Employer risk:** Terminating employees on probation without following due process will amount to unfair termination for which an employer may be liable to pay up to 12 months’ salary as compensation.

**Link:** http://kenyalaw.org/caselaw/cases/view/217394/

Vaccination (COVID-19)

COVID-19 vaccination has become mandatory for civil servants in the country. Such workers have until 23 August 2021 to get vaccinated.

**Impact date:** 13 August 2021

**Employer implications/action needed:** Employers may take disciplinary action if its civil servant employees fail to undergo vaccination.

**Employer risk:** Employers need to bear in mind potential exemptions from vaccination before initiating disciplinary action.
Remote work

Updated legislation has introduced a definition of "remote work" and there is further regulation of a remote worker’s expenses. In general, if both parties have agreed to remote working, the worker’s related expenses must be covered by the employer unless otherwise provided for by an employment contract or a collective bargaining agreement concluded with a trade union.

**Impact date:** 1 August 2021

**Employer implications/action needed:** Employers should ensure that the remote work and allocation of costs are agreed with workers, taking account of the performance of work and required resources.

*Link:* [Amendments to the Labour Law](#)

Termination of employment of disabled employees

Updated legislation has removed the prohibition on terminating the employment of disabled employees. That prohibition previously applied in three circumstances, namely (i) when an employee who previously performed the respective work was reinstated at work; (ii) when the number of employees was being reduced; and (iii) when an employee does not perform work due to temporary incapacity for a specific period of time. As a result of the updated legislation, the fact of an employee’s potential or existing disability is no longer taken into account when issuing termination notices to employees.

**Impact date:** 1 August 2021

**Employer implications/action needed:** No immediate action needed, although employers should review and update employment contracts and internal legal enactments if they fail to reflect the updated legal position.

*Link:* [Amendments to the Labour Law](#)
**Health checks (COVID-19)**

Employers operating in certain sectors (health care institutions, education service providers, pharmacies, international transport of cargo, public transportation, entertainment providers, public catering, retailers, etc.) and those whose employees have direct contact with other persons in performing their duties must undergo COVID-19 health checks every 7 to 10 days. An exception applies to those employees who have been fully vaccinated or who have recovered from COVID-19.

**Impact date:** 13 September 2021 (industrial undertakings)

**Employer implications/action needed:** Relevant employers must maintain a list of employees subject to the health checks, collect information from employees regarding their vaccination/recovery from COVID-19, as well as maintain an up to date list of employees:
- who have been fully vaccinated against COVID-19 / recovered from COVID-19; and
- who have undergone periodic health checks (including dates).

**Employer risk:** Non-compliance may lead to an administrative penalty:
- of EUR 500 to EUR 1500 for persons (employees);
- of EUR 1500 to EUR 6000 for a head (or another responsible person) of a legal entity.


**Employee pay methods**

An amendment to the Labour Code of the Republic of Lithuania has been made to provide that salaries and other employment-related payments must be paid by transfer to a payment account specified by the employee.

**Impact date:** 1 January 2022

**Employer implications/action needed:** The new provision will require all employers to abandon cash payments. In preparation, employers must collect relevant data on their employees’ payment accounts.

**Employer risk:** Non-compliance may lead to an administrative penalty in the amount of EUR 150 to EUR 1400. A repeated breach carries a penalty of between EUR 1400 and EUR 3000. A deliberate breach carries a penalty of between EUR 2700 and EUR 6000.

**Link:** Amendment of Article 139 of the Labour Code
**Redundancy**

Following the COVID-19 pandemic, amended legislation provides that, instead of requesting financial assistance, an employer may now give written notice of at least 30 days to the Redundancy Board on grounds of restructuring for financial reasons.

**Impact date:** 20 June 2021

**Employer implications/action needed:** In the event that an employer intends to reduce its workforce by relying on this amendment to the legislation, the employer will need to ensure that it satisfies the Redundancy Board of the financial reasons. In particular, the company will need to demonstrate it is over-indebted, that any further debt will increase the risk of insolvency and that the restructuring will help the company to repay its debts and continue to stay solvent.

**Employer risk:** A series of information and documents must be provided to the Redundancy Board in support of redundancies. Where the employer fails to provide the required information and documents, a reduction of the workforce will be deemed unjustified. In that event, the employer risks severance allowances being payable.

**Link:** Workers’ Rights Act

**Compromise agreements**

Where a worker and an employer agree to resolve a dispute concerning termination of employment or non-payment or short payment of remuneration, the worker and the employer must enter into a written compromise agreement.

**Impact date:** 20 June 2021

**Employer implications/action needed:** Employers should ensure that any formal requirements are met when entering into a compromise agreement. Such requirements include that the agreement is reviewed by an independent adviser.

**Employer risk:** Where an employer fails to comply with the requirement to enter into a compromise agreement, any payment due to the worker may be claimed in court.

**Link:** Workers’ Rights Act
Mauritius

Ban on dismissals

A ban on dismissals for the period 1 June 2020 to 31 December 2021 applies to employers with a minimum of 15 employees or having an annual turnover of at least 25 million Rupees (Rs).

**Impact date:** Until 31 December 2021

**Employer implications/action needed:** Employers must ensure that no termination of employment takes place during this prescribed period. This means that, unless a restructuring through a reduction of the workforce is justified, employers will not be able to reduce the number of workers until the end of the year.

**Employer risk:** A reduction of the workforce in breach of the legislation may give rise to a claim by any employee whose employment has been terminated. If the court finds that there has been an unlawful termination, the payment of a severance allowance (which may also include ‘punitive’ interest of up to 12%) or an order for reinstatement of the employee may be imposed.

**Link:** [Workers’ Rights (Prescribed Period) Regulations 2021](#)

Retirement benefits

New legislation ensures that, in addition to the basic retirement pension, a person above the normal retirement age benefits from the payment of a guaranteed monthly retirement benefit. Several benefits are also provided in the event of an injury at work, including disablement benefit, orphan’s benefit, industrial injury benefit and survivor’s benefits.

**Impact date:** 1 September 2021 (mandatory contributions) and 1 July 2023 (benefits payable)

**Employer implications/action needed:** Social Contributions must be paid to the Mauritius Revenue Authority through an e-platform. Employers should pay particular attention to the calculations, which are different to the previous system. Contributions from September 2021 will include a percentage of bonuses, including on the statutory end of year bonus/gratuity which was previously excluded.

**Employer risk:** Late payment of Social Contributions will result in penalties and interest. Non-payment of Social Contributions is a criminal offence with a maximum fine of Rs. 50,000 (circa EUR 1,000) and imprisonment of up to 12 months.

**Link:** [Social Contribution And Social Benefits Act 2021](#)
Portable Retirement Gratuity Fund (PRGF)

The PRGF was introduced to provide for the payment of a gratuity on retirement or death of a worker. Although only having come into operation in January 2020, this payment was placed under an initial moratorium which has now been extended to January 2022 as a result of the pandemic.

**Impact date:** 1 January 2022

**Employer implications/action needed:** Employers should ensure that the payment of contributions to the PRGF is budgeted for and paid in January 2022.

**Employer risk:** Failure to pay into the PRGF when it falls due will lead to fines and penalties:

- Under the Income Tax Act, a maximum fine of Rs. 5,000 and imprisonment of up to 6 months;
- Under the Workers’ Rights Act:
  a. interest of 1% per day of the total contribution payable for failure to file monthly returns; and
  b. a penalty of Rs. 500 per day for failure to file an annual return.

**Link:** [PRGF - Mauritius Revenue Authority](#)
Amendments to the legal regime applicable to labour courts

The legal regime applicable to labour courts has been amended. The amendments include a new deadline of 5 days for an employer to file its defence in the preliminary injunction procedure to suspend the effects of a dismissal. Additionally, the suspension of the dismissal will now only be granted when it is very likely that the dismissal was unlawful.

**Impact date:** 5 May 2021

**Employer implications/action needed:** Employers should be aware of this new legislation, particularly in terms of the new deadline to file a defence in injunction procedures.

**Employer risk:** Failure to submit a defence within the deadline will lead to the suspension of the dismissal of the employee.

Fines relief and reduction of interest

Temporary relief for fines and a reduction of interest related to social security contributions have been made available in light of the social and economic impacts of the pandemic.

**Impact date:** 12 May 2021 to 12 May 2022

**Employer implications/action needed:** Employers should note the procedural requirements for applying for this measure as well as the different options available.

**Employer risk:** Failure to adhere to the procedural requirements could result in the application for the measure being rejected.

Mandatory mediation (case law)

The Constitutional Court has deemed to be unconstitutional the Mozambique Labour Law provision that the employer or employee must first go to mediation before filing a judicial or arbitration claim.

**Impact date:** 13 July 2021

**Employer implications/action needed:** Employers should be aware that employees may now file a judicial or arbitration claim without having previously initiated a mediation procedure.

**Employer risk:** A statement of defence can no longer be based merely on the fact that employee has not previously initiated a mediation procedure, as this will not be considered sufficient ground to resist an employee’s claim.
Updated preventative measures (COVID-19)

Updated preventative measures have been introduced in the workplace, including mandatory use of masks, ensuring frequent hand-washing, social distancing of at least 2 meters, not sharing personal items, systematic cleaning of the workplace and facilities and temperature testing. The updated measures also establish a special protective regime for some categories of employees.

Impact date: 16 August to 14 September 2021

Employer implications/action needed: Employers should be aware of such preventive measures and ensure compliance.

Employer risk: Failure to comply with the preventive measures is a criminal offence.
Increased minimum wage rates

The minimum wage for employees aged 21 or over increased from EUR 1,684.80 gross to EUR 1,701.00 gross per month, excluding the 8% statutory holiday allowance, based on full-time employment.

**Impact date:** 1 July 2021

**Employer implications/action needed:** Employers should:

- ensure that employees receive at least the statutory minimum wage; and
- check whether salary levels required for certain exceptions are still being met.

**Employer risk:** In addition to reputational risk, failing to pay the statutory minimum wage may result in wage claims from employees and fines being imposed by the Inspectorate of between EUR 500 and EUR 10,000 per employee.

**Link:** [Minimum wage amounts 2021](https://wetten.overheid.nl/BWBR0005290/2021-07-01)

On-call contracts

Employers must offer on-call employees fixed hours once they have been engaged for 12 months and must do so within 2 months of that anniversary (the 'statutory commencement date'). This amendment is aimed at preventing employers from delaying the introduction of fixed hours by making offers which are not due to take effect for several months.

**Impact date:** 1 July 2021

**Employer implications/action needed:** Employers will have limited opportunity to delay the introduction of fixed hours once an engagement has lasted 12 months and should therefore ensure that appropriate processes are in place to comply with the new requirement.

**Employer risk:** Failure to offer on-call employees a fixed number of working hours will result in additional pay becoming due and risks payment of the statutory increase of up to 50% for late salary payments.

**Link:** [https://wetten.overheid.nl/BWBR0005290/2021-07-01](https://wetten.overheid.nl/BWBR0005290/2021-07-01)
**Applicable law (case law)**

The Court of Appeal has ruled that ten Hungarian truck drivers have employment contracts governed by Dutch law and that the Haulage Collective Labour Agreement (CLA) therefore applies. The truck drivers were employed by a Hungarian employer and claimed salary under the CLA, which is applied to all truck drivers whose regular country of work is the Netherlands. The Court of Appeal found a number of circumstances that pointed to the work being most closely connected to the Netherlands, including where the work was carried out, where the planning and administration took place and from where instructions were given.

**Impact date:** 29 July 2021

**Employer implications/action needed:** Employers should review arrangements with workers contracted from outside the Netherlands but where the regular country of work is the Netherlands.

**Employer risk:** Failure to correctly identify the applicable law can result in unexpected liabilities including salary and other emoluments, in addition to litigation and PR risk.


**Commuting allowance**

The Dutch Tax Authority has extended the COVID-19 commuting allowance period so that employers who granted this allowance to employees prior to 13 March 2020 can continue to pay fixed commuting allowances on a tax-free basis to those still working from home due to the COVID-19 pandemic.

**Impact date:** Until 1 October 2021

**Employer implications/action needed:** Employers making use of this measure should note the current end date (unless extended again) and ensure that allowances are not operated on a tax-free basis beyond this date.

**Employer risk:** There could be tax implications for the employer if the tax free cut off period is not adhered to.

**Link:** [Fixed travel expenses](Fixed travel expenses)
Whistleblowing

Implementation of the EU directive on the protection of whistleblowers will come into force. The changes to existing whistleblowing regulation include:

- extension of whistleblower legal rights and protections to all persons in a work-related relationship;
- expansion of the employers that will be obliged to have internal whistleblower procedures in place;
- widening of the scope of whistleblowing to include infringements of EU law; and
- additional requirements for internal and external reporting channels and procedures.

Impact date: 17 December 2021 (expected)

Employer implications/action needed: When the legislative proposal is adopted, employers should:

- amend their whistleblowers procedure and related practices taking into account the new legislation; and
- appoint an independent officer to whom the (suspicions of) wrongdoings or infringements of EU law can be reported.

Employers in the private sector with 50 to 249 employees should ensure that they meet the above obligations by 17 December 2023.

Employer risk: Criminal liability and fines can be imposed if the legal obligations are not observed. In addition, any disadvantage during or after the report/disclosure could lead to litigation. A reversed burden of proof will be introduced for whistleblowers who believe they were retaliated against. To mitigate against this risk, employers should ensure that objective reasons for any disadvantage are present and recorded/stored.

Link: Speaking up: the 2021 deadline for the EU Whistleblowing Directive

Smoking areas

Smoking areas which are in an enclosed room/area designated for smoking tobacco products, which is also marked as such, will no longer be permitted. This obligation comes in addition to other existing requirements for employers to ensure a smoke-free working environment for employees.

Impact date: 1 January 2022 (date for the business sector)

Employer implications/action needed: Employers must ensure that any smoking area within its company/site/premises is out of use before 1 January 2022.

Employer risk: Employers that breach the requirement to close smoking areas risk fines, with amounts varying from EUR 600 for the first offence to EUR 4,500 for the fourth offence.

Link:
- Tobacco and Tobacco Products Act
- Smoking ban on public areas, workplaces and catering establishments
Parental rights

Amendments to the current legislation will give employees an entitlement to unpaid parental leave for a period of 26 times the weekly working hours and a benefit from the Employee Insurance Agency ("UWV") for part of that leave, to be taken before the child reaches the age of 1.

Impact date: 2 August 2022

Employer implications/action needed: When the amendments are in force, employers should review and/or amend any existing internal policies on parental leave to ensure that such policies comply with the amended legislation. Further, note that the request for the employee’s parental leave benefit shall in principle be submitted to the UWV by employers.

Employer risk: Failure to offer paid parental leave may result in increased employee litigation as well as reputational damage.

Link: [Paid Parental Leave Act](#)

Pension reform

Social partners and the Dutch government have reached an agreement on pension reforms. The reforms include abolishing defined benefit schemes and prescribing flat rates for defined contribution schemes. The explanatory memorandum is being finalized by the minister of Social Affairs and Employment.

Impact date: 1 January 2023, with implementation between 2023 and 2027

Employer implications/action needed: Employers should consider the pension reforms in any current salary planning, benefits harmonization, pension scheme redesign or pension contract renewal.

In advance of the reforms taking effect, employers will need to take a number of actions, including:

- employment contracts: All pension contracts between employers and employees must be renewed (with the involvement of works councils); transition arrangements must be negotiated and set up; transfer of accrued defined benefit funds into new defined contribution schemes; and
- pension scheme execution: All pension schemes and pension execution agreements must be amended.

Employer risk: Governance on transfer and transition will be very complex.

If employers are not able to renew pension contracts with the employees on time, there is a risk that the employer has to continue the pension scheme, but no pension fund will execute it. In this case the financial consequences weigh heavily on the employer.

Link: [Coming down the track briefing - Upcoming legislation based on the Pension Agreement ("Pensioenakkoord")](#)
Disguised employment

Employers and/or independent contracts are able to access a pilot version of a web module through which they are able to assess the status of an assignment (i.e. whether an employment agreement or an agreement for services). Currently, the result of the web module has no legal status. The pilot version will be evaluated soon and the government will then decide if, and from when, it will (re)start the enforcement of disguised employment. In addition, it will decide whether the web module will have legal status.

Impact date: Unknown at this time.

Employer implications/action needed: If the result of the web module is afforded legal status, employers can use the web module to clarify the status of a working relationship and assess liability to pay (wage) taxes and/or social security contributions with respect to an independent contractor due to “disguised employment” and/or “misclassification”.

Employer risk: While the results of the web module continue to have no legal status, employers cannot rely on the outcome and may still be held liable to pay (wage) taxes and/or social security contributions with respect to an independent contractor due to “disguised employment” and/or “misclassification”.

Link: [Web module Assessment of an Employment Relationship](#)
Quarantine restrictions

A number of quarantine rules remain in place, which are dependent on the location and method of travel, testing and test certificates. Persons traveling from a country where there is an agreement in place with the Republic of Poland regarding the movement of persons in connection with COVID-19 no longer need to continue to quarantine if, within 48 hours after crossing the border, they receive a negative test result.

Impact date: Until 30 September 2021

Employer implications/action needed: Employers should monitor the latest restrictions and exemptions from quarantine in order to effectively manage the international travel of employees.

Link: [Information for travellers (strazgraniczna.pl)](https://strazgraniczna.pl)

Remote work

A draft Act in relation to remote work has been published by the government, which envisages removing telework from the Labour Code and replacing it with more flexible remote work provisions.

As currently drafted, the Act includes:
- provision for agreeing remote work at the conclusion of an employment contract or during employment at the initiative of the employer or employee;
- the ability for an employer to require remote work in exceptional cases (emergency state, epidemic state etc.); and
- detailed obligations in respect of remote work, including specific health and safety rules.

Impact date: No date at present, but the new regulations are expected to enter into force after a lapse of 3 months from the end of the epidemic state.

Employer implications/action needed: Employers will have the ability to agree the introduction permanent remote working arrangements. If there are telework arrangements already in place, such arrangements must be reviewed and updated within 6 months from the effective date of the new legislation.
Trial periods for job seekers (case law)

The Constitutional Court deemed unconstitutional the amendment to the Portuguese Labor Code that increased the trial period (from 90 to 180 days) for first job seekers who have been previously employed by other employer(s) for 90 or more days under a fixed-term contract.

**Impact date:** 7 June 2021

**Employer implications/action needed:** When recruiting, employers must check whether individuals have been previously hired by other employer(s) under a fixed term employment contract for more than 90 days. If so, a maximum 90-day trial period should apply.

**Employer risk:** If a 180-day trial period is incorrectly used, termination of the contract between the 91st and 180th day of the trial period will be deemed unlawful. Potential legal consequences include compensation or reinstatement.


Extended liability for wage claims (case law)

The Constitutional Court has deemed unconstitutional the prevention of joint and several liability of a company with head offices outside the national territory. The decision extends potential liability for wage claims.

**Impact date:** 11 July 2021

**Employer implications/action needed:** Reciprocal participation, dominium or group relationship structures with foreign companies will no longer prevent such foreign entities from being jointly and severally liable for payments due to employees in Portugal. Foreign companies operating in Portugal under such structure should therefore review arrangements to assess any potential liability for employee claims.

**Employer risk:** Foreign companies that are in a reciprocal participation, dominium or group relationship with a Portuguese company may be deemed jointly liable for labour credits due by the Portuguese company to its employees.


Telework framework

Having previously been mandatory, telework moved to being recommended for most employees during the period to 31 August 2021, whenever compatible with the functions of the employee.

The exceptions where telework continued to be mandatory was where compatible with the duties of (i) immunosuppressed employees, (ii) disabled employees affected by a degree of disability of 60% or more (iii) employees who have a children or other dependents aged below 12 or, regardless of age, affected by disability or chronic illness.

Further, an obligation applied to all companies with 50 or more employees to implement staggered working hour schedules.

**Impact date:** 1 to 31 August 2021

**Employer risk:** Breach of mandatory measures regarding telework is considered a serious administrative offence, punishable with fines.
New incentive for normalisation of activity

To support companies in returning to normal activity levels, a new financial incentive was provided for companies who, in the first quarter of 2021, benefited from the extraordinary support for the maintenance of employment contracts or from the extraordinary support for the progressive resumption of activity. The amount of the financial incentive is calculated based on the number of employees (subject to maximum limits).

Impact date: 15 May to 31 August 2021

Employer implications/action needed: Employers should note the procedure, timing requirements and cumulation provisions when applying for incentives and the different types of incentive available, which can either be paid in a phased manner over six months or as a lump sum.

Subject to certain conditions, companies may also be entitled to a partial exemption from the payment of 50% of their contributions to social security during the first two months of the incentive.

Employer risk: Failure to adhere to the procedural requirements could result in the application for the incentive payment being rejected.


Simplified support for micro-companies

The existing simplified support for micro-companies (employing less than 10 employees) was extended to 31 August 2021. Micro-companies will be eligible for financial support if:

- they are in a business-crisis situation and have experienced a decrease in turnover of a minimum of 25% when compared to turnover during 2019 or 2020;
- during 2020 they benefited from support under the simplified lay-off procedure or extraordinary support for the progressive resumption of activity; and
- during the first quarter of 2021 they have not benefited from support under the simplified lay-off procedure or extraordinary support for the progressive resumption of activity.

Impact date: 15 May to 31 August 2021

Employer implications/action needed: Employers should note the procedural requirements for applying for simplified support and the conditions of acceptance, which include a prohibition (except in certain limited circumstances) on the termination of employment during the support period and in the 60 days following that period.

Employer risk: Failure to adhere to the procedural requirements could result in the application for the support being rejected.

**Sickness benefit (COVID-19)**

The entitlement of both employees and individual contractors to apply for sickness benefit due to COVID-19 has been extended.

**Impact date:** 1 July to 30 September 2021

**Employer implications/action needed:** The amount of the sickness benefit subsidy is equivalent to 100% of net reference remuneration and is available for a maximum period of 28 days, without any required waiting period. Employers should take account of this temporary extension of benefit in their sickness benefit procedures.


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**Extension of the extraordinary support for the progressive resumption of activity (COVID-19)**

The Portuguese government has, once more, extended this support measure, allowing employers with a decrease of turnover equal or above 75% to:

- reduce regular working hours:
- by up to 100% for up to 75% of the workforce of each establishment, or
- by up to 75% for up to 100% of the workforce of each establishment.
- for employers in the bars, nightclub, recreational parks and event supply or staging industries whose establishments were legally required to close due to legislative or administrative order, reduce regular working hours by up to 100% for all of the workforce.

Employers may only reduce regular working hours if the establishments are kept open, unless closure is required by legal or administrative order.

In addition, the period during which, after the end of the support period, the employer cannot terminate employment (except in certain limited circumstances) is increased from 60 to 90 days.

**Impact date:** Ongoing

**Employer implications/action needed:** Employers should note the procedural requirements for applying for the extraordinary support and the conditions for acceptance, which include a prohibition (except in certain limited circumstances) on the termination of employment during the support period and in the 90 days following that period.

**Employer risk:** Failure to adhere to the procedural requirements could result in the application for the support being rejected.
Health and safety - heat stress in outdoor work sites

The Qatari Ministry of Administrative Development, Labour and Social Affairs ("MADLSA") has started implementing precautions to protect workers from heat stress in outdoor work sites during the summer period. In particular:

- the prohibition of work between 10:00 and 15:30 for work performed in the sun, in outdoor workplaces and in any other non-shaded and non-ventilated venues during the period 1 June to 15 September;
- a prohibition on working in open areas if the temperature exceeds 32.1ºC, regardless of when this occurs;
- an obligation to provide training on dealing with heat stress to all workers by May each year;
- the provision of free drinking water to all workers at a suitable cold temperature throughout the work period;
- the provision of shaded rest areas that are easily accessible to workers and effective in providing protection from sunlight and high temperatures;
- the provision to workers of personal protective equipment suitable for hot weather, including suitable clothing;
- the provision of free annual medical examinations to diagnose and manage chronic diseases that may contribute to the risk of heat stress; and
- health supervisors must be trained to provide directions and first aid to workers.

Impact date: 26 May 2021

Employer implications/action needed: Employers must review working arrangements to ensure compliance with the new precautions. MADLSA has emphasized the importance of employers:

- setting a schedule of daily working hours that is made visible to all workers; and
- developing a joint plan with workers to assess the risks of heat stress and mitigate its effects. Such plan should be reviewed and updated periodically.

A copy of the plan and the schedule of working hours should be available in the event of an inspection.

Employer risk: MADLSA monitors the activities of employers and often conducts on-site inspections. Sanctions for breach of obligations include revocation of license, the temporary/permanent forced closure of the business and/or fines.
Recruitment of workers from abroad

MADLSA announced changes to certain provisions regulating the conditions and procedures for the licensing of the recruitment of workers from abroad.

**Impact date:** 29 July 2021

**Employer implications/action needed:** Business owners/employers must strictly comply with the amended provisions, including:

- adhering to labour law legislations/regulations of the country from which workers are recruited;
- prior to employment, providing workers with their terms and conditions of employment;
- prior to their arrival to Qatar, issuing workers with a written work contract reflecting the agreed terms and conditions, which should include the provision of housing and meals; and
- guaranteeing an additional six-month probationary period starting at the end of the three-month preliminary testing period.

**Employer risk:** MADLSA monitors the activities of employers and often conducts on-site inspections. Sanctions for breach of obligations include revocation of license, the temporary/permanent forced closure of the business and/or fines.

FIFA World Cup

The FIFA World Cup is scheduled to take place in Qatar from 21 November to 18 December 2022. In-line with the Government Guarantees issued in accordance with the Hosting Agreement between the State of Qatar and FIFA, new legislation has been enacted that provides for a number of measures. This includes certain employment-related measures in respect of workers’ rights and immigration.

**Impact date:** 8 August 2021

**Employer implications/action needed:** None at present. Employers operating in relation to the event should note the new measures, including in respect of entry visas and an exemption from the applicability of labour law provisions for certain workers.

Link: [Qatar’s Official Gazette](#)
Electronic proof of health and professional training compliance

Proof of health and professional training compliance may be recorded in electronic format or in hardcopy.

**Impact date:** 6 May 2021

**Employer implications/action needed:** Employers recording proof of training electronically should note that there are requirements regarding the signature of such records. In particular, that the record must be signed with a simple, advanced or qualified signature.

Teleworking

Employers must provide teleworking employees with sufficient and adequate information and training on health and safety at work.

A teleworking employment contract/addendum is no longer required to reflect the place where the employee will perform the activity, however there is a requirement for employees to comply with the employer’s confidentiality measures.

**Impact date:** 6 May 2021

**Employer implications/action needed:** Employers should review internal policies/collective bargaining agreements to ensure they are compliant with the legal obligations concerning teleworking.

**Employer risk:** Potential exposure to fines if the legal obligations are not observed.

Exemption of micro-enterprises from certain employer-related obligations

Micro-enterprises are those companies with up to 9 employees and a net annual turnover/total assets of up to the RON equivalent of EUR 2 million.

Micro-enterprises are no longer under an obligation to provide a written job description to employees and can instead communicate the job description verbally. Further, such companies are exempt from implementing an internal regulation.

**Impact date:** 6 May 2021

**Employer implications/action needed:** Although the exemptions provide additional flexibility for micro-enterprises, it may still be considered prudent to use some form of written job description and internal regulation, for example to ensure clarity on required duties, performance and conduct.
Employment contracts

The standard model of individual employment contracts (IEC) must now include:

– information about the obligation (for persons up to 45 years old who are insured under the public pension system) to join a private pension fund; and
– that job duties are set out in the job description contained in an annex to the IEC (with the exception of micro-enterprises).

Impact date: 19 July 2021

Employer implications/action needed: The new requirements apply to both existing and new employees. Employers should therefore review and update all contracts to ensure compliance.

Employer risk: Non-compliance with the revised provisions may result in exposure to compensation and fines.

Electronic signatures

The process for employment documents to be validly signed electronically has been simplified:

– individual employment contract - either an advanced or a qualified electronic signature may be used for signing, amending, suspending or terminating the contract. A time stamp and seal are no longer required.
– other employment documents - a simple, advanced or qualified electronic signature or the electronic seal of the employee may be used. The conditions under which such signing method can be used should be clarified in the internal regulation or the collective bargaining labour agreement.

Impact date: 25 July 2021

Employer implications/action needed: Employers may wish to update internal policies/CBLA to reflect that electronic signatures may be used.

Employer risk: Potential exposure to fines if the legal obligations are not observed. The employer may agree (but is not obliged) to bear the expenses incurred in using an electronic signature method.

Time off for vaccination (COVID-19)

Employers (both private and public sector) must allow employees a days’ paid leave (in addition to annual leave) for each COVID-vaccination, upon employee request and subject to certain conditions being fulfilled. The same benefit is also provided for students, active military personnel and soldiers.

Parents/legal guardians of children aged up to 18 years (or disabled children up to 26 years) are entitled to one days’ leave for each COVID-19 vaccination of the child, on the actual date of the vaccination and limited to one parent/legal guardian per child.

Impact date: 29 July 2021

Employer implications/action needed: Employers should take account of this right in its leave arrangements and may wish to put in place a process for employee requests to be made.

Employer risk: Non-compliance with the provisions may result in exposure to fines.
Information and consultation obligations

A new obligation is proposed to inform and consult employee representatives about certain aspects of the company’s activities. In particular including:

– the recent and probable future evolution of the company’s activities, its economic situation, strategic development, and allocation of resources;
– the situation, structure and probable evolution of employment within the company, including where there is a threat to jobs;
– decisions that may lead to important changes in work organization, contractual relations or employment relationships.

Impact date: Awaited. Pending procedure in the second chamber of the Parliament.

Employer implications/action needed: No action required at present. However, employers may ultimately need to update internal policies / the internal regulation.

Employer risk: Non-compliance with the revised provisions may expose employers to administrative fines, which range from RON 1,000 (approx. EUR 206) to RON 50,000 (approx. EUR 10,254) depending the legal obligation breached.

Paternity leave

An increased entitlement to paternity leave of 10 working days (increased from 5 working days) for fathers of newborn children is proposed. In addition, employees returning from paternity leave will have the right to receive no less favourable treatment, to return to work in an equivalent location under conditions that are no less favourable and to benefit from any improvement in the working conditions that would have applied had the leave not been taken.

Impact date: Awaited. Pending procedure in the first chamber of the Parliament.

Employer implications/action needed: No action required at present. However, employers should review paternity leave policies to identify where changes may need to be made.

Employer risk: Non-compliance with the provisions may result in exposure to fines.
General Registry of Employees

The General Registry of Employees (REVISAL) is a digital registry that provides information about individual employee work contracts. It is proposed for it to be accessible online by employees / former employees. The right of access will be limited to viewing, downloading and printing employees' own records only.

**Impact date:** Awaited. Pending procedure in the first chamber of the Parliament.

**Employer implications/action needed:** No action required at present. However, employers may ultimately need to update internal processes to grant access to REVISAL for employees.

**Employer risk:** Potential exposure to legal sanctions if the obligations are breached.

Vaccine discrimination (COVID-19)

A new ground of discrimination is proposed, based on the administration or not of any vaccine. Any form of manifestation or measure of exclusion, segregation, restriction, distinction, preference or differential treatment exercised over a person or categories of persons based on vaccination will be prohibited.

**Impact date:** Awaited. Pending procedure in the first chamber of the Parliament.

**Employer implications/action needed:** No action required at present. However, employers may ultimately need to update internal policies / the internal regulation to take account of the extended legal obligation and any measures to mitigate the risk of discrimination.

**Employer risk:** Potential exposure to fines if the legal obligation is not observed which may range between RON 3,000 – 100,000 (approx. EUR 608 – 20,286) depending the legal obligation breached if the act does not constitute a criminal offence.
Work record books
The Ministry of Labor has consolidated and simplified the rules for keeping and completing work record books, including in respect of the form of the book and leaflet, the method of making entries and registering work records.

Impact date: 1 September 2021

Employer implications/action needed: Employers must ensure that work record books are kept and completed in accordance with the new rules.

Employer risk: Failure to maintain and complete work record books correctly may result in administrative liability for violation of employment legislation.


Right to work procedures
Within 30 calendar days from entry into Russia, foreign workers (with some exceptions) will have to undergo:
- fingerprinting and photo registration;
- medical examination to confirm the absence of dangerous infections (including HIV) and drug addiction.

Impact date: 29 December 2021

Employer implications/action needed: Employers should take steps to ensure that foreign workers comply with the new procedure.

Employer risk: The period of temporary stay in the Russian Federation for foreign nationals will be reduced if the obligations are not complied with.


"Work in Russia" portal
Employers (with some exceptions) must post vacancies on the "Work in Russia" portal and give information about such vacancies.

Impact date: 1 January 2022

Employer implications/action needed: Employers that meet the requirements should take steps to adjust recruitment procedures to publish vacancies on the portal.

Employer risk: Breach of the requirements may result in administrative liability.

Link: [https://sozd.duma.gov.ru/bill/1114509-7](https://sozd.duma.gov.ru/bill/1114509-7)
**New health and safety regulations**

Federal law on new health and safety obligations has been adopted, including:

- **Recording of micro-injuries** - micro-injuries (abrasions, bruises, soft tissue contusions, and other injuries at work) must be registered, together with the circumstances and cause.
- **Suspension of employees** – Any employees who do not use the issued mandatory PPE can be suspended from work without pay.
- **Hazardous working conditions** - If a special assessment of working conditions classifies the conditions as hazardous, work must be suspended, workers transferred to other work or their positions kept open on full pay and measures taken to eliminate the risk. An action plan to address the risk must be prepared, also taking account of the opinion of the primary trade union (if any) and a copy sent to the State Labour Inspectorate.

**Impact date:** 1 March 2022

**Employer implications/action needed:** Employers must ensure that the new obligations are followed once implemented. In addition, there will be a number of provisions giving employers more practical flexibility, in respect of which current procedures may need to be adjusted, including

- maintaining health and safety records electronically;
- monitoring the safety of work with the help of video and audio equipment;
- allowing the State Labour Inspectorate remote access to observe work processes and electronic databases of occupational safety and health documents;
- recording work processes and electronic documents on labor protection (for some types of activities) remotely.

**Employer risk:** If non-compliance with occupational safety standards leads to severe consequences (e.g. harm to the health of employees), company officials may be held liable, up to and including criminal liability.


**Employees who are carers**

It is proposed that more job security should be given to employees caring for people with disabilities and raising children. The proposals include additional leave for carers of disabled persons and restrictions on nightwork, overtime and business travel for those employees with 3 or more children under the age of 14.

**Impact date:** Awaited. Draft adopted at first reading.

**Employer implications/action needed:** Employers should monitor the progress of the legislation and review current policies, procedures and collective agreements to identify where they may need to be updated.

**Employer risk:** No special sanctions are included in the bill at this stage.

**Link:** [https://sozd.duma.gov.ru/bill/1098757-7](https://sozd.duma.gov.ru/bill/1098757-7)
**State support for part-time work**

New legislation gives state support for part-time work in certain circumstances.

State support will be provided for the partial reimbursement of employees’ salary where the employer is unable to assign work to employees to the originally-agreed extent due to external reasons which the employer cannot affect or prevent, such as supply chain failure.

The support is 60% of the average hourly earnings of the employee.

**Impact date:** 1 January 2022

**Employer implications/action needed:** No immediate actions needed, however employers should be aware of the option of this state support tool.

**Link:** New Act No 215/2021

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**Taxation of meal benefits**

To eliminate inequalities in the taxation of various forms of meal benefits (vouchers and financial contributions) and to simplify the administrative requirements, a number of changes are proposed. The proposed changes also aim to encourage employers to provide higher financial contributions.

**Impact date:** Awaited. Still in legislative procedure, expected 1 January 2022.

**Employer implications/action needed:** No action required at present. Employers should monitor the progress of the legislation and anticipate that tax advisors may need to be consulted if implementing adjusted arrangements.

**Link:** Amendment of the Labor Code

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**Transparent and predictable working conditions**

To ensure transparent and predictable working conditions for employees, several changes are proposed, including:

- amendment of the current provisions regarding employment contracts and the provision of information on working conditions;
- clarification of the scope of information that employees should receive;
- an employee’s right to request to transfer to another form of employment;
- allowing information to also be provided in electronic form; and
- clarifying the provisions on work-life balance of parents and carers.

**Impact date:** Awaited. Still in legislative procedure, expected 1 August 2022.

**Employer implications/action needed:** No action required at present. Employers should monitor the progress of the legislation and anticipate that changes in internal directives might be necessary in due course.

**Employer risk:** In the event that the Labour Code imposes new obligations on employers, any breach may be sanctioned by a fine imposed by the Labour Inspectorate.

**Link:** LP/2021/416 Act amending Act No. 311/2001 Z. z. Labour Code
Government guidance has been issued in relation to the fairness of an employer’s mandatory vaccination policy and its implementation.

The guidance takes account of different influencing factors, namely public health imperatives; the constitutional rights of employees; and the efficient operation of the employer’s business.

**Impact date:** 11 June 2021

**Employer implications/action needed:** Employers must undertake a risk assessment to identify employees who pose a higher COVID-19 risk and should be vaccinated in the following categories:

- risk of transmission due to the nature of their work; or
- risk of severe COVID-19 disease or death due to their age or comorbidities.

Subject to any collective agreement, the employer must provide certain information to the identified employees, including the employee’s right to refuse to be vaccinated on constitutional or medical grounds. The guidance also suggests steps in the event of such refusal, including reasonably accommodating the employee in a position that will not require the employee to be vaccinated.

Employers should also give employees paid time off to receive vaccination and to recover should they experience side effects.

**Employer risk:** Where an employer does implement a mandatory vaccination policy and an employee refuses to be vaccinated, risk will be mitigated if the employer considers fully the grounds for refusal and any reasonable accommodation. If the employer is unable to reasonably accommodate the employee and subsequently dismisses them, employers risk one of the following actions:

- an unfair dismissal dispute referral to the CCMA or bargaining council. If the employer is found liable, reinstatement or the payment of compensation (up to 12 months salary) may be ordered;
- the referral of an automatically unfair dismissal dispute to the Labour Court if the employee claims discrimination or that the dismissal was based on an arbitrary ground. If the employer is found liable, payment of compensation (24 months’ salary) may be ordered.

**Link:** Consolidated Directives on Occupational Health and Safety Measures in Certain Workplaces: Annexure C- Guidelines if an employer makes vaccination mandatory.
South Africa

**Data protection**

New legislation aims to protect personal information that relates to an identifiable natural or legal entity, including information processed by employers relating to employees.

The new law applies to South African businesses and to foreign businesses that operate and process information in South Africa.

**Impact date:** 1 July 2021

**Employer implications/action needed:** Employers should take steps to comply with the conditions applicable to the processing of employee personal information, including

– appointing an information officer;
– preparing a privacy policy;
– providing training on applying the privacy policy;
– raising employee awareness; and
– reviewing contracts with third parties who have previously had access to employee information.

**Employer risk:** Failure to comply with the new law can give rise to a fine of up to R10 000 000.00 or imprisonment not exceeding 12 months. Employers may also be required to pay compensation to data subjects (a category which includes employees) for damages suffered as a result of loss suffered as a result of a breach of the obligations.

**Link:** Protection of Personal Information Act 4 of 2013

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**Temporary relief scheme due to civil unrest**

New regulations establish a new temporary relief scheme. The aim of the scheme is to give financial relief to workers who lost remuneration, in full or in part, as a result of the closure of their workplace due to the civil unrest which took place in Gauteng and KwaZulu-Natal during the period of 9 - 18 July 2021.

**Impact date:** 11 August 2021

**Employer implications/action needed:** Employers who had to close their businesses as a result of the civil unrest during 9 - 18 July 2021 must apply for relief under the scheme on behalf of the affected employees/workers.

Employers must satisfy a number of requirements, including being registered with the Unemployment Insurance Fund and the provision of details/proof of the destruction, damage, looting or closure of the workplace to the South African Police Services.

Employers should monitor any developments in relation to the scheme, as the regulation will be reviewed by the Minister every two weeks. It currently contains no termination date.

**Employer risk:** Employers must comply with the regulation. Failure to do so is an offence, with potential liability to a fine or imprisonment.

**Link:** Destroyed, Affected or Looted Workplaces: Temporary Financial Relief Scheme, 2021 (Government Gazette No. 44978)
Remote working

New legislation has been implemented regulating arrangements with remote employees. In particular:

– equipment that must be provided;
– expenses;
– working time;
– written agreement between the parties;
– data protection; and
– health and safety.

Impact date: 11 July 2021

Employer implications/action needed: Employers employing remote workers should familiarize themselves with the new requirements and ensure that the arrangements with such workers are compliant. In particular, ensuring that written agreements are in place that include the new conditions, either incorporated into the employment contract or attached as an annex.

Employer risk: Fines for non-compliance of EUR 6,250 to 187,000 (increased by 20% with effect from 1 October 2021).


Transgender rights

The new law for the real and effective equality of transgender people is expected to be published in the coming weeks, the Council of Ministers having approved the draft bill. The law guarantees equal opportunities for transgender people, including in relation to recruitment and employment.

Impact date: Awaited (not yet published)

Employer implications/action needed: Employers should review recruitment and employment processes and procedures to ensure they guarantee the rights that the law establishes for the non-discrimination of transgender applicants and employees.

Employer risk: Fines for non-compliance of EUR 6,250 to 187,000 (increased by 20% with effect from 1 October 2021).

Link: https://www.congreso.es/public_oficiales/L14/CONG/BOCG/B/BOCG-14-B-156-1.PDF

Contact

Jacobo Martinez
Partner
T: +34 91 42 94 33 3
jmartinez@eversheds-sutherland.es
Local implementation of the EU Whistleblowing Directive ("WBD")

The Swedish government has submitted a bill for the implementation of the WBD. The implementation will mainly adhere to the minimum standards set by the WBD, with some differences. For example, the proposed implementation will not only cover reports of breaches of EU law, but will also include reports of breaches or other misconduct where there is a public interest in the information being made available to the general public, which can include breaches of Swedish national laws.

Impact date: December 2021 (estimated implementation date)

Employer implications/action needed:

- Establishing internal reporting channels in accordance with the requirements set out in the upcoming legislation;
- Developing or updating current policies on whistleblowing to ensure adequate organizational measures are taken, including to protect whistleblowers from potential retaliation;
- Reviewing what security and technical measures have been or will need to be taken to manage reporting procedures, particularly with regard to protecting the identity of whistleblowers.

Employer risk: No risk at present, but employers should prepare for implementation and take advice on impact where necessary.

Link: Chapter three: Speaking up - the 2021 deadline for the EU Whistleblowing Directive
**Short-time working compensation (case law)**

The Federal Court has clarified that that an employee affected by short-time work whose place of employment is not in Switzerland does not benefit from short-time working compensation under Swiss law, regardless of their place of residence.

**Impact date:** 20 May 2021

**Employer implications/action needed:** The rules of entitlement and assessment for short-time work compensation should be noted, including that Switzerland must be the country of employment. This requirement means that the employer must have a business or branch of business in Switzerland.

**Employer risk:** Risk of the claim for short-time working compensation being rejected.

**Link:** [Judgement (8C_17/2021)]

**Simplification of short-time working compensation**

The regulations on short-time working compensation have been simplified and changes made to reduce the administrative burden on businesses. The changes include an electronic procedure for registration for all types of compensation, amendments to the provisions on interim employment and new regulations governing electronic correspondence between insured persons and the authorities.

**Impact date:** 1 July 2021

**Employer implications/action needed:** Employers should take note of the updated arrangements if applying for compensation.

**Employer risk:** Failure to follow the simplified process could result in unnecessary time and effort for employers.

**Family care**

A new protection has been introduced, protecting against termination of employment during paid leave for taking care of seriously ill children and up to 6 months after the start of the reference period. Further, to prohibit normal holiday entitlement being reduced due to an absence based on this type of paid leave. Employees are eligible for the new protection after expiry of the probation period.

**Impact date:** 1 July 2021

**Employer implications/action needed:** Employers should review holiday entitlement and termination policies and processes to take account of the new legal requirements.

**Employer risk:** Employer should anticipate the possibility of additional absenteeism of employees due to this new type of leave.
**Termination of employment (case law)**

The Federal Supreme Court held that in case of an unjustified termination with immediate effect, the same provisions regarding the due date for compensation claims apply as for an ordinary termination. With respect to a contractually agreed entitlement to a share of the company profit, this means that the claim is only due once the operating result of this financial year are available but no later than six months after the end of such financial years. Other claims arising out of the employment relationship are due on the termination of the employment.

**Impact date:** 15 July 2021

**Employer implications/action needed:** Employers should ensure correct payment to former employees and involve payroll accordingly.

**Employer risk:** Financial impact due to mistakes in calculation of amount to pay and employees’ claims in case of incomplete payment.

**Link:** [Judgement 4A_126/2021](#)

**Refusal to work (case law)**

A cessation of work by the employee requires conscious, intentional and definitive refusal to continue the work. Only if these requirements are met is the contract terminated by the employee with immediate effect. If the refusal to work does not result from an explicit declaration by the employee, a case-by-case assessment is necessary to determine whether a termination has taken place, taking into account all the circumstances.

**Impact date:** 19 July 2021

**Employer implications/action needed:** In the event of litigation, a judge will assess whether the employer could in good faith understand the employee’s renunciation of the position. If the employee’s actions are ambiguous, it is incumbent on the employer to induce the employee to resume the activity. The employer bears the burden of proof of the facts indicating that the employee has refused to work and return to the workplace. Employers should therefore ensure thorough evidence is maintained.

**Employer risk:** Risk of additional salary payments if the employment relationship is not terminated.

**Link:** [Judgement 4A_91/2021](#)
UAE Golden Visa

The Golden Visa is a long-term residence visa system offered to eligible expatriates for 5 or 10 years and enables individuals to live, work, conduct business and study in the UAE without requiring a national sponsor. The Ministry of Human Resources and Emiratisation (MOHRE) has recently announced that individuals will be able to obtain work permits under their own Golden Visa instead of under their employment sponsorship.

**Impact date:** 1 July 2021

**Employer implications/action needed:** A Golden Visa may be granted to individuals that meet the requirements under the following categories:

- investors;
- entrepreneurs;
- specialized talents and researchers in various fields of science and knowledge; and
- students with promising scientific capabilities.

Applicants who are granted a Golden Visa are required to transfer their residency from their current visa (e.g. employment visa) to the Golden Visa. This means the individual will no longer be sponsored by their employer as they are required to cancel their existing employment visa. However, they can remain employed by the same employer under their own Golden Visa by obtaining the required work permit from MOHRE or relevant free zone authority.

**Employer risk:** To avoid the risk of termination entitlements being triggered as a result of the Golden Visa holder obtaining a new work permit, continued employment without any break may be agreed by the parties.

**Link:** Regulation of Golden Visa
Data protection

Abu Dhabi Global Market (ADGM), an international financial free zone in Abu Dhabi, issued new data protection regulations, modelled on the GDPR, which supersede and substitute the previous legislation. An independent Office of Data Protection has also been established.

The end of transition period date depends on whether the company is established in ADGM prior to, on or following, the date of publication of the new regulations.

**Impact date:** Transition period to August 2021 or February 2022

**Employer implications/action needed:** Under the new regulations, employers in the ADGM should ensure compliance with the new regulations when dealing with data and consider the following:

- whether they require a Data Protection Officer;
- the steps required to be taken in the event of a data breach;
- the requirement of a Processing Map/ Record of Processing Activities (ROPA); and
- how to handle a Data Subject Access Request.

**Employer risk:** Breach of the new regulations by a data controller or processor can result in a fine of up to USD28 million. If the Data Protection Fee is not paid, the data controller will be fined up to 150% of the fee. Individuals may also file a complaint with the Office of Data Protection in the event of violation of data privacy rights by an ADGM-registered company.

**Link:** [ADGM New Data Protection Regulations 2021](#)

COVID-19 vaccination

To date, the UAE government has not imposed a mandatory requirement on citizens and residents to be vaccinated. However, there have been recent government announcements regarding the possibility of taking more precautionary measures to restrict the movement of unvaccinated people.

**Impact date:** Ongoing regular updates on this topic are issued on a federal and emirate-specific level.

**Employer implications/action needed:** The MOHRE and other government authorities have issued directions regarding entering the workplace, requiring individuals to either be fully-vaccinated or to provide a negative PCR test result within a certain timeframe. Employers must therefore check the vaccination-status of their employees and PCR tests to ensure compliance, as applicable. This will vary depending on the sector and emirate in which the employer operates.

**Employer risk:** Employers should monitor developments in this area and ensure compliance as applicable to their industry, work location and emirate. Further, employers should take steps to plan how restrictions regarding the movement of unvaccinated individuals may impact the workplace.
Termination of employment without reasons (case law)

The Court of Appeal of Uganda clarified the unfettered right of an employer to terminate employment on notice without the need for any reasons. Since 2014, the position had been that before an employer could discharge an employee, whether through a dismissal (misconduct/performance related reasons) or termination (other reasons), it needed to have justifiable reasons. In this case however, the Court of Appeal upheld the right of an employer to unilaterally terminate an employee without ascribing reasons.

Impact date: 11 May 2021

Employer implications/action needed: The clarification by the Court of Appeal gives employers more flexibility to terminate the employment of employees without significant procedural requirements.

Link: Judgement - Bank of Uganda vs. Joseph Kibuuka and 4 others Court of Appeal Civil Appeal 281 of 2016

Labour disputes process amendments

The Labour disputes process in Uganda involves two primary stages: (1) reporting a dispute to a labour officer (2) the labour officer hearing the dispute or referring it to the Industrial Court.

The Industrial Court is the primary adjudicative body in Ugandan employment law, which had previously been comprised of one panel of five individuals (two judges and three lay panelists). Labour disputes process amendments have now split the panel, resulting in two separate panels comprised of a single judge and three panelists.

Impact date: 23 July 2021

Employer implications/action needed: It is expected that as a result of the amendments, labour disputes will be resolved much faster and the current backlog will be resolved.

Link: The Labour Disputes (Arbitration and Settlement) (Amendment) Act 2020
**Equal pay (case law)**

The Court of Justice of the European Union found in equal pay litigation that female claimants working at a supermarket could compare their work with male workers employed in distribution centres.

**Impact date:** 3 June 2021

**Employer implications/action needed:** Employers should note that if it can be demonstrated that there is a single source able to control terms and conditions for employees across a business, for example an overarching holding company, for equal pay purposes employees can compare themselves to any other employee in the organisation of a different gender, notwithstanding that they are employed at different establishments. The existence of a single source will be fact sensitive in any particular case.

**Employer risk:** None at present. It is important to note that, as a first hurdle in this fact-sensitive litigation, this judgment only concerns whether the claimants are entitled to make this comparison as a threshold test to progressing the equal pay claim. It remains to be established whether the claimants actually perform work of equal value with their comparators and the extent to which legitimate defences to any pay differentials may be relevant.

**Links:**
- Equal pay

**Status (case law)**

The Court of Appeal has rejected a claim that a group of Deliveroo drivers were “workers” for the purpose of UK trade union recognition legislation.

**Impact date:** 24 June 2021

**Employer implications/action needed:** Employers who engage individuals on a non-employed basis should consider carrying out a review and risk assessment, in particular taking account of the degree of control exercised by the putative employer. In this particular case, the drivers entered an agreement with Deliveroo that permitted them to use substitutes. There was no obligation for them to be available if a job appeared on the app they used and jobs were based on proximity to the point of collection.

**Employer risk:** Potential risks of misclassifying the status of workers includes liability for failure to pay the statutory minimum wage and potential pension auto-enrolment and holiday pay entitlements.

**Link:** IWGB (Deliveroo) v CAC
Sexual harassment

Publication of a government consultation response on sexual harassment in the workplace. The package of measures includes:

- the introduction of a mandatory duty on employers to protect workers from harassment and victimisation in the workplace;
- a new Equality and Human Rights Commission (EHRC) statutory code of practice on sexual harassment; and
- protection from third-party harassment.

Impact date: 21 July 2021

Employer implications/action needed: The new duty would not require employers to take any practical steps that they are not already expected to take. However, employers should review current polices and procedures and prioritize prevention. The new code is expected to clarify expectations and provide employers with greater certainty.

Links:

- Government responds to two workplace consultations: on health- Publications - Eversheds Sutherland (eversheds-sutherland.com)
- Government response to consultation on sexual harassment in the workplace - GOV.UK (www.gov.uk)

Ill health

Publication of consultation response on ill-health in the workplace. The government will consider measures to help raise awareness and understanding around existing equality rights and responsibilities and has asked the Health and Safety Executive to develop non-statutory guidance to support disabled people and those with long-term health conditions to remain in work, in addition to managing any related sickness absence. The government has since published a National Disability Strategy, seeking to remove barriers faced by disabled people, including at work.

Impact date: 21 July 2021

Employer implications/action needed: Employers can expect to see an increased focus on creating healthier workplaces and offering the right support to staff. The non-statutory guidance is likely to outline a package of recommended measures to seek to achieve this.

Link: Government responds to two workplace consultations: on health- Publications - Eversheds Sutherland (eversheds-sutherland.com)
Self-isolation rules (COVID-19)
Self-isolation rules changed in August with some workers no longer required to self-isolate. However, the rules do slightly differ across the devolved nations.

**Impact date:** 7 August (Wales); 9 August (Scotland); 16 August 2021 (England)

**Employer implications/action needed:** Despite these changes, there will be many circumstances where workers are still required to self-isolate. Where the employer is aware of this requirement, it must not knowingly allow the worker to attend the workplace.

**Link:** Changes to self isolation rules - what employers need to know - Eversheds Sutherland (eversheds-sutherland.com)

Fair Work Criteria in bidding for Public Sector Contracts (Scotland)
In September 2021, the Scottish Government will publish New Fair Work criteria said to be central to Scotland's economic recovery from the COVID-19 pandemic.

Fair Work criteria are used in the evaluation of funding bids and applications for public sector procurements and grants and in wider funding decisions by public sector bodies.

Under the publicised new criteria, which will likely come into effect from October 2021, "employers will be encouraged to explicitly promote flexible and family friendly practices, alongside their opposition to fire and rehire processes and their support for other fair work priorities". The criteria have been drafted to offer workers "job security as well as flexible work that can benefit both workers and their employer".

**Impact date:** October 2021

**Employer implications/action needed:** The Fair Work criteria are focused on driving fair work across the labour market by applying relevant criteria to public sector grants and procurements. When published, they may have an impact on employers bidding for public sector contracts.

**Employer risk:** Employers bidding for public sector contracts will require to be mindful of the Fair Work First criteria in submitting future bids. Updated Fair Work First guidance will be published in September 2021, together with revised procurement policy advice.

**Link:** https://www.gov.scot/news/new-fair-work-criteria/
**Gender, ethnicity and disability pay gap reporting (Northern Ireland)**

The Employment Act (Northern Ireland) 2016 set out provision for gender, ethnicity and disability pay gap reporting in Northern Ireland.

**Impact date:** Awaited. The Act has not yet been implemented by the Northern Ireland Executive nor have the regulations yet been drafted.

**Employer implications/action needed:** No action required at present. Employers should monitor the progress of the legislation. It is likely that the Equality Commission for Northern Ireland will start to push the Northern Ireland Executive to move to implement these regulations to bring the region in line with the rest of the UK in relation to gender pay reporting, and potentially ahead in relation to ethnicity and disability reporting.

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**Vaccination (COVID-19)**

Regulations in England provide that care homes must ensure that, subject to certain exceptions, staff (and others) do not enter the premises unless they provide evidence that they have been fully vaccinated.

**Impact date:** 11 November 2021

**Employer implications/action needed:** Employers affected should consider: checking vaccination rates amongst staff and any exemptions; conducting regular communication and employee/trade union engagement to encourage vaccination and explain the consequences of refusing; amending policies, contracts and other documents; ensuring data is lawfully processed; exploring all options for unvaccinated staff, including redeployment, before any dismissal.

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**Prevention of illegal working**

Following Brexit and the ending of free movement between the UK and EEA on 31 December 2020, there are changes to the way a right to work in the UK can be demonstrated. The end of a temporary period for an adjusted right-to-work check process has now been deferred to 5 April 2022. A new draft Code of Practice on the prevention of illegal working has been published, together with updated guidance.

**Impact date:** 5 April 2022

**Employer implications/action needed:** HR teams should familiarise themselves with the new Code of Practice and new employer guidance, ensure training needs in respect of the online checks are met and ensure they have access to suitable advice should there prove to be technical difficulties in the process.

**Employer risk:** Penalties may be imposed or prosecution may take place by UK Visas and Immigration of those employers who do not follow the requirements.

**Links:**
- [updated guidance note](#)
- [UK immigration: new guidance on prevention of illegal work - Eversheds Sutherland (eversheds-sutherland.com)](#)
- [Podcast](#)

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Unemployment benefits – work-search requirement

The U.S. Department of Labor issued a memo to States, urging them to re-instate work-search and other rules, if States deemed it safe to do so relative to COVID-19. Most States have re-imposed the requirement.

Impact date: 1 July 2021

Employer implications/action needed: Employers may experience increased applications regarding open positions. Employers should be aware of anti-discrimination laws when making hiring decisions.

Non-compete agreements

President Biden signed an Executive Order on Promoting Competition in the American Economy. In the Order, President Biden encourages the Federal Trade Commission to adopt rules banning or limiting non-compete agreements.

Impact date: 9 July 2021

Employer implications/action needed: Employers do not need to make sweeping changes to their non-compete agreements at this stage. However, they should assess their restrictive covenants for enforceability, making sure that they are narrowly tailored to protect legitimate interests.

Employer risk: If an employer has a non-compete clause that is overly broad and unreasonable, then, depending on the State, it faces the risk of a court refusing to enforce the restriction against a departing employee.

OSHA Guidance on COVID-19

OSHA recently announced guidance regarding COVID-19. The new guidelines state:
- all workers, including fully-vaccinated people, should wear a face covering, as appropriate, in public indoor settings in areas of substantial or high transmission;
- employers should require all customers, visitors, or guests to wear face coverings in public indoor settings in areas of substantial or high transmission of COVID-19, or suggest that they do so;
- employers should consider adopting policies that require workers to get vaccinated or undergo regular COVID-19 testing;
- fully-vaccinated workers who have been exposed to someone with suspected or confirmed COVID-19 should be tested 3 to 5 days after exposure and wear a mask in public indoor settings for 14 days or until they receive a negative test result; and
- adverse reactions to a COVID-19 vaccine is not to be considered a recordable injury.

Impact date: 13 August 2021

Employer implications/action needed: Employers should review their current COVID-19 policies and determine what changes, if any, need to be implemented to take account of the OSHA guidance.

Employer risk: Employers have a duty to provide their employees with a place of employment which is free from recognized hazards that cause or are likely to cause death or serious physical harm. An employer’s failure to adhere to this general duty risks fines and liability.
The global HR strategist

Our global HR strategist series provides insights into some of the topics that will be on the agenda for HR teams during 2021 and potential developments. Drawing on the wealth of experience of our lawyers across the world supporting global projects, we consider these topics and how HR strategists can maximise their impact in the global workplace.

Read our global articles:

- Global workforce mental health protection
- Global diversity data gathering and use
- Speaking up - the 2021 deadline for the EU Whistleblowing Directive
Global pay and employee benefits traps for the unwary

This briefing highlights a number of international pay and employee benefits legal issues that carry potentially severe penalties. Each of these issues is well worth a review now to avoid future consequences.

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