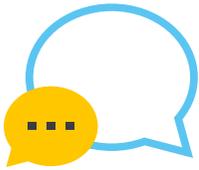


**Giving you global oversight**

Our quarterly Global Employment  
and Labor Law Update





## Welcome to this third edition of our quarterly **Global Employment and Labor Law Update for 2022.**

As we move into the second half of the year, a number of global themes continue to emerge and develop. In Europe, the local implementation of the EU Directives on Transparent and Predictable Working Conditions and Work-life Balance has been driving many of the legislative reforms, which is expected to continue. Equality and fairness are also constant features globally, with some significant developments again this quarter, including around reporting and new grounds of discrimination.

Keeping apprised 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.



## Equality and fairness

In our last edition, we reported on some significant new laws focused on enhancing equality requirements and protections. Further developments have been seen this quarter, with Gender Pay Gap Regulations recently published in Ireland, new unlawful discrimination grounds introduced in Spain, stricter regulation of employment equity plans due to come into force later in the year in South Africa, measures to promote

the employment of persons aged 55 or over in Finland, and new guidance on ethnicity pay reporting awaited in the UK.

Similar measures taken in the last few years by other countries to prevent and eliminate workplace harassment, a new requirement to implement and publish a violence and harassment prevention policy will also come into force in Lithuania later this year.

## Work-life balance and family leave

Many of the developments around new and enhanced employee family-related benefits and new rights that aim to support work-life balance have continued to be driven by the implementation of the Directive on Work-life Balance and the demands of new ways of working. Proposed and implemented new laws have included measures to reform the labour market in

Belgium which includes a right to disconnect from work, a Right to Flexible Work Bill introduced in Ireland, new rights to leave for special family reasons in Denmark, reforms to ensure a more even distribution of leave between parents in Finland, as well as enhanced parental and paternity leave entitlements and benefits in a number of countries.

## Status, working arrangements and transparent conditions

With the deadline now passed for implementation of the Directive on Transparent and Predictable Working Conditions, a number of EU Member States have now implemented the Directive or are in the final stages of doing so. This is shaping the legislative reform landscape in those jurisdictions, including some significant changes around terms and conditions of employment and the provision of information to employees.

New developments reflecting the more flexible working environment have also continued to be seen this quarter, with

the Netherlands' Work Where You Want Act continuing to progress through the legislative process, new permanent teleworking rules in Hungary and the extension of smart working in Italy.

Issues of misclassification of status continue to be a feature in the courts globally, including recent significant cases in the Czech Republic and the Netherlands. In the UK, the Government has published a consultation response and new guidance with a view to making it easier for individuals to determine their correct status.

**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.**

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# Angola



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### Presidential Legislative Decree no. 02/2022 – Regime of the Social Protection System of the Angolan Armed Forces

Defines the legal regime for the Social Protection System of the Angolan Armed Forces.

**Impact date:** 2 May 2022

**Employer implications/action needed:** N/A

**Employer risk:** N/A

**Link:** <https://www.lexlink.eu/FileGet.aspx?FileId=3031722>

### Presidential Decree no. 96/2022 – Occupational Qualifier

Regulates the instructions for the preparation and application of the Occupational Qualifier ("Qualificador Occupational") in the exercise of labor activity.

The Occupational Qualifier is an internal management tool, mandatory for employers with more than 10 work roles with different functions, which describes the employee's functions, organized systematically in a hierarchical manner according to its staff group, levels of development and salary levels, containing for each one, the work content, the profile required for its exercise and the corresponding minimum remuneration.

**Impact date:** 2 May 2022

**Employer implications/action needed:** Employers should be aware of this new instrument and, if applicable, ensure compliance with it.

**Employer risk:** Failure to comply with the requirements of this regime may lead to the payment of fines, up to a maximum amount equivalent to 10 times the average monthly salary within the company.

**Link:** <https://www.lexlink.eu/FileGet.aspx?FileId=3031724>

### Presidential Decrees no. 97 and 110/2022 – Social protection regime for independent employees and for the insured without a labor bond

Regulates the legal regime for mandatory social protection of independent employees and of the insured without a labor contract.

**Impact date:** 2 May and 12 May 2022.

**Employer implications/action needed:** N/A

**Employer risk:** N/A

**Links:** <https://www.lexlink.eu/FileGet.aspx?FileId=3031725> and <https://www.lexlink.eu/FileGet.aspx?FileId=3031869>

# Angola



## **Executive Decree no. 223/2022 – Regulation on the Organization and Operation of the National Commission for the International Labor Organization**

Establishes the rules and procedures to be observed in the operation of the National Commission for the International Labor Organization.

**Impact date:** 9 May 2022

**Employer implications/action needed:** N/A

**Employer risk:** N/A

**Link:** <https://www.lexlink.eu/FileGet.aspx?FileId=3031980>

## **Presidential Decree no. 109/2022 – Social worker career**

Regulates the Social Employee Career. This Career applies to employees assigned to the Social Action Sector and to other bodies of the Public Administration with similar activities employing professionals of this career.

**Impact date:** 12 May 2022

**Employer implications/action needed:** Employers should be aware of this Career and ensure compliance.

**Link:** <https://www.lexlink.eu/FileGet.aspx?FileId=3031868>

## **Presidential Decree no. 112/2022 – End of the Public Calamity Situation and measures to control the spread of COVID-19 pandemic**

Declares the end of the Public Calamity Situation in the entire national territory and defines the rules for the administrative management of the control of the COVID-19 pandemic.

**Impact date:** 16 May 2022

**Employer implications/action needed:** N/A

**Employer risk:** N/A

**Link:** <https://www.lexlink.eu/FileGet.aspx?FileId=3031894>

# Austria



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### Sexual harassment at work - Employer's duty of care (case law)

The Vienna Higher Regional Court decided that an employer does not commit a breach of the duty of care if it has investigated the sexual harassment allegations of an employee by questioning the employee and by inspecting WhatsApp messages and has explored possible remedial measures before confronting the other employee with the allegations.

After the employer confronted the employee concerned, the employee did not want to comment on the allegations. In view of a possible dismissal, the employee signed a mutual termination agreement the same day without reading the document, as he did not want to have time to think about it.

By refusing to comment on the serious allegation of sexual harassment and by waiving the consultation of the works council or a period of reflection before agreeing to the mutual termination agreement on the same day, the affected employee cannot derive an unlawful breach of the employer's duty of care towards him from the omission of a "more detailed questioning". In the absence of unlawful conduct by the employer, the employee is therefore not entitled to damages.

**Impact date:** 13 April 2022

**Employer implications/action needed:** Employers must always consider both employee positions (alleged "victim" and "offender") in the event of an allegation of (sexual) harassment at the workplace. The employer has a duty of care to all its employees. As soon as the employer becomes aware of (sexual) harassment, the employer must take appropriate measures to remedy the situation.

**Employer risk:** If the employer does not thoroughly investigate the allegation and can assume its actual existence, there may be a breach of the duty of care to the alleged perpetrator. This violation can lead to claims for damages.

### Reduction of employee's health insurance contribution payments

Employees must pay a monthly statutory health insurance contribution. The amount of that contribution is to be reduced in accordance with a legally-defined scale, based on the monthly contribution base (e.g. a reduced 2.37% contribution will apply to salaries between €1,000.01 and €1,800.00). The statutory health insurance contribution rate continues to apply at an unchanged level (3.87%). The difference between the reduced contribution amount paid and the health insurance contribution rate is to be funded through a payment by the federal government.

**Impact date:** 1 July 2022

**Employer implications/action needed:** Employers may need to liaise with payroll and communicate the change to their employees.

**Employer risk:** If too much health insurance contribution has been paid, the employee may request a refund.

**Link:** [Health Insurance Contribution Payments](#)

# Austria



## Wage and income tax

Wage and income tax is to be reduced as follows:

- 2nd tax level: From 35% to 30% from 1 July 2022.
- 3rd tax level: From 43% to 40% from 1 July 2023.

**Impact date:** 1 July 2022/1 July 2023

**Employer implications/action needed:** Employers should review their payroll arrangements to ensure that the new rates are reflected once they come into force.

**Employer risk:** If the employer has paid too little wage tax, it will be ordered by the tax office to pay the wage tax in arrears. If too much wage tax has been paid, the employee may request a refund.

**Link:** [Wage and Income Tax](#)

## Whistleblowing

A draft law ("*HinweisgeberInnenschutzgesetz* – HSchG/Whistleblower Act") to implement the EU Whistleblower Directive has been submitted to Parliament for review.

Individuals who report violations of Austrian and Union law (including in the areas of corruption, public procurement, financial services, environmental protection, product safety, consumer protection, and privacy) will be protected from negative employment consequences. Both internal and external reporting bodies will be created.

**Impact date:** 15 July 2022 (end of review period).

**Employer implications/action needed:** Private companies with 50 or more employees are affected; for smaller companies with fewer than 250 employees, there is a transition period until December 2023. Companies must create internal secure reporting systems. The reports must be documented and there are obligations to provide information to the whistleblower.

**Employer risk:** Employers risk fines of up to EUR 20,000 in the event of any breach (EUR 40,000 in repeated cases).

**Links:** [Briefing: The EU acts to accelerate implementation of the Whistleblowing Directive across Member States](#); [Keeping up with EU Directives briefing](#)

# Austria



## Changes to posted workers in the road traffic sector

EU rules concerning the posting of drivers in the road transport sector provide special provisions on the question of whether a posting exists, for aspects of the procedure for administrative assistance and for sanctions. The same applies to the agreement between the European Union and the United Kingdom of Great Britain and Northern Ireland. These provisions of Union law require adjustments in Austrian law ("the LSD-BG").

The following essential measures are provided for in the LSD-BG for road transport:

- clarification of cross-border transports that do not constitute a posting - in particular bilateral transports from or to the Member State and related certain additional transport activities
- establishment of special control measures with regard to:
  - obligation to report
  - keeping documents available in the vehicle
  - transmission of documents after corresponding request by the authorities
  - provisions in connection with administrative assistance in the event of non-transmission of documents by transport operators
  - penalty provisions in the event of violations of the transposition provisions.

**Impact date:** 19 July 2022

**Employer implications/action needed:** For other processes for posting mobile workers, the existing provisions for mobile workers in the transport sector remain unchanged. Thus, there will have to be two regimes for mobile workers in the transport sector in the future. It should be noted that Directive (EU) 2020/1057 is not relevant for transport operators only from the EEA (Iceland, Liechtenstein and Norway) or the Swiss Confederation, because it is not covered by the agreements concerning these states; for transport operators from these states, the existing provisions for mobile workers in the road transport sector will largely remain unchanged.

**Employer risk:** Non-compliance with the provisions of the LSD-BG leads to severe penalties.

# Belgium



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### Minimum wage

The current age and length of service conditions for the Minimum Average Monthly Guaranteed Income (MAGI) have ceased to apply, resulting in only one minimum wage in force for all workers from the age of 18. The average monthly guaranteed minimum wage (Revenu Minimum Mensuel Moyen Garanti (RMMMMG)) is also increased from €1,625.72 to €1,806.16.

**Impact date:** April 2022

**Employer implications/action needed:** Employers should review and, where necessary, update pay arrangements to ensure that they provide employees with at least the statutory guaranteed minimum wage.

**Employer risk:** Failure to comply with the minimum wage requirements risks criminal and social law sanctions.

**Links:** [http://cnt-nar.be/CCT-ORIG/cct-043-16-\(09.03.2022\).pdf](http://cnt-nar.be/CCT-ORIG/cct-043-16-(09.03.2022).pdf); [http://cnt-nar.be/CAO-ORIG/cao-043-16-\(09.03.2022\).pdf](http://cnt-nar.be/CAO-ORIG/cao-043-16-(09.03.2022).pdf)

### Implementation of European Directive on transparent and predictable working conditions

New legislation partially transposes the EU Directive on transparent and predictable employment conditions. The aim of this Directive is to improve working conditions by promoting more transparent and predictable employment while ensuring adaptability in the labor market.

**Impact date:** 1 August 2022

**Employer implications/action needed:** Employers must take into account various new obligations with regard to providing compulsory training (free of charge and in principle during working hours) and new information obligations (concerning trial periods, entitlement to holidays and other paid leaves). Additionally, specific study-cost clauses agreed before the entry into force of the Act will possibly be null and void and the same goes for some ancillary employment clauses, unless there is an objective justification.

**Employer risk:** Criminal sanctions as prescribed by the Social Penal Code (unknown at the moment as they still need to be added).

**Link:** <https://www.dekamer.be/FLWB/PDF/55/2811/55K2811001.pdf> (FR – NL)

### Labor deal - Measures to reform the labor market

To support the socio-economic recovery, the government has drawn up a restart transition plan. The first axis of that plan includes a series of measures to reform the labor market. With the unprecedented crisis we are experiencing, the aim is to give workers and companies breathing space and offer new opportunities.

**Impact date:** Q3 or Q4 of 2022.

**Employer implications/action needed:** Most of the implications/actions will depend on whether action is taken by the employees themselves (e.g. four day working week, variable working week). In addition, employers will, depending on their particular situation, be obliged to provide a right to disconnect (e.g. no need to answer e-mails outside working hours), provide a right to training (an individual plan is sometimes required and in general three days must be provided in 2022, four days in 2023 and from 2024 onwards five days) and a change in the notice period required for employees working flexible working hours.

**Employer risk:** Sanctions specific to employers active in the platform economy.

**Link:** <https://www.dekamer.be/FLWB/PDF/55/2810/55K2810001.pdf>

# China



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### Social insurance allowance in Jiangsu Province

The Department of Human Resources and Social Insurance of Jiangsu Province and other related local authorities have jointly issued a Notice of Relevant Matters on Social Insurance Allowance Payable to Enterprises during Maternity Leave (关于产假期间企业社会保险补贴有关事项的通知)(the "Notice"). Enterprises that pay social insurance contributions for their employees during their maternity leave and who gave birth to their second or third child on or after 10 February 2022 are entitled to a monthly social insurance allowance. Such allowance is 50% (for employees who gave birth to their second child) or 80% (for employees who gave birth to their third child) of the employer's portion of the social insurance contributions actually paid for such employees during the maternity leave, payable up to six months commencing from the month of birth.

**Impact date:** 11 May 2022

**Employer implications/action needed:** Eligible enterprises in Jiangsu Province may apply to the local human resources and social security bureau for the social insurance allowance, subject to providing the required application documents.

**Employer risk:** N/A

**Link:** [Notice of Relevant Matters on Social Insurance Allowance Payable to Enterprises during Maternity Leave](#)

### Deferred contributions of social insurance

The PRC Ministry of Human Resources and Social Security and other government authorities have jointly issued a Circular on Expanding the Implementation Scope of the Policy on Deferred Contributions of Social Insurance (关于扩大阶段性缓缴社会保险费政策实施范围等问题的通知)(the "Circular"). The Circular includes an extension of the scope of the policy on deferred contributions of social insurance (which originally was only applicable to five sectors i.e. the catering, retail, tourism, civil aviation and public transportation sectors) to cover enterprises in another 17 sectors (including processing of food originating from agricultural products, automobile manufacturing, pharmaceutical manufacturing, chemical fibre manufacturing, entertainment) which have encountered operational difficulties and have suffered loss due to the COVID-19 pandemic.

Local governments at the provincial level shall put in place regulations and rules to facilitate the implementation of the Circular. Some local governments (e.g. Beijing and Shanghai) have already released their ancillary regulations and rules.

**Impact date:** 31 May 2022

**Employer implications/action needed:** Eligible enterprises may apply to the local human resources and social security authority for deferred contributions of the employer's portion of certain categories of social insurance in accordance with the ancillary rules issued by the local government.

**Link:** [Circular on Expanding the Implementation Scope of the Policy on Deferred Contributions of Social Insurance](#)

# China

## Upward adjustments of key employee pay and other thresholds

In early July 2022, the local government in many localities has announced the annual upward adjustments of

- (a) the average monthly salary of employees in the relevant city ("Local AMS") for the preceding year (i.e. 2021) and
- (b) the local threshold & cap for contribution basis of mandatory social insurance and housing funds (collectively, "Social Security") for going forward (i.e., July 2022 -June 2023).

**Impact date:** The new figure of Local AMS became effective on the date of announcement, whereas the new figures of local threshold & cap for contribution basis of Social Security will be applicable from July/August 2022 to June/July 2023.

**Employer implications/action needed:** Under PRC law, statutory severance pay shall be calculated based on an employee's average monthly salary in the 12 months prior to the termination date ("Employee's AMS"). The Employee's AMS shall be capped at three times the Local AMS for the preceding year. On this basis, an increase in the Local AMS will lead to an increase in the local cap for statutory severance pay.

Specifically in Shanghai, it is provided in the local regulations that where the monthly sick leave pay payable to an employee is higher than the Local AMS for the preceding year, the employer may pay the employee the latter as a cap. On this basis, the increased Local AMS may also lead to extra payment of sick leave pay.

Further, the upward adjustment of the local threshold and cap for contribution basis of Social Security will increase the employer's costs of Social Security contributions for certain employees.

**Employer risk:** Employers in the relevant localities shall use the adjusted figures for the relevant calculations/contributions; failing which, the employees may bring a claim against the employer before the local court/tribunal or report the situation to the local labor bureau.



# Czech Republic



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### New form - Notice of commencement/termination of employment

The Czech Social Security Administration has issued a new form for the notification of commencement and termination of employment. In addition, the following new information must be reported at the end of employment:

- period of pension insurance
- the average or probable monthly net earnings
- the amount of entitlement to severance pay or redundancy pay, including whether it has been paid
- the manner and reason for termination of employment.

**Impact date:** 1 April 2022

**Employer implications/action needed:** If a new employee starts or terminates employment, the employer must use the new form to notify the Czech Social Security Administration.

**Employer risk:** In the event of failure to properly notify the Czech Social Security Administration, the employer risks a fine of up to CZK 20,000.

**Link:** [Link](#)

### Formalities for employment contracts (case law)

The Supreme Court has held that contracts between employers and employees (e.g. employment or termination contracts) can be executed electronically without the specific formalities in the Labor Code (e.g. signed using qualified electronic signature) and still be valid and binding.

**Impact date:** 27 April 2022

**Employer implications/action needed:** No action needed.

**Employer risk:** Although formalities such as the use of a qualified electronic signature as specified by the Labor Code may not be required for electronic contracts between the employer and the employee, it's still recommended to use a wet signature and personal delivery until this is clarified or there is explicit legal regulation. This case law does not affect unilateral documents (in particular termination letters) where signing formalities must be strictly followed.

**Link:** [Judgement: No. 21 Cdo 2061/2021](#)

# Czech Republic

## Increases to fuel compensation for travel expenses

In response to the sharp increase in fuel prices, the amounts of average fuel compensation to which employees are entitled when using a private vehicle for business trips without submission of actual pay slips have been increased. The increased rates are CZK 47.10 (approx. EUR 1.88) per 1 litre of diesel and CZK 44.50 (approx. EUR 1.78) per 1 litre of 95 octane petrol.

**Impact date:** 14 May 2022

**Employer implications/action needed:** Employers should ensure that any necessary adjustments are made to fuel expense reimbursement arrangements to take account of the new rates.

**Employer risk:** Employers risk fines of up to CZK 200,000 (approx. EUR 8,000) in the event of underpayment of travel expenses.

**Link:** [Decree No. 511/2021 Col](#)

## The self-employed and employment status (case law)

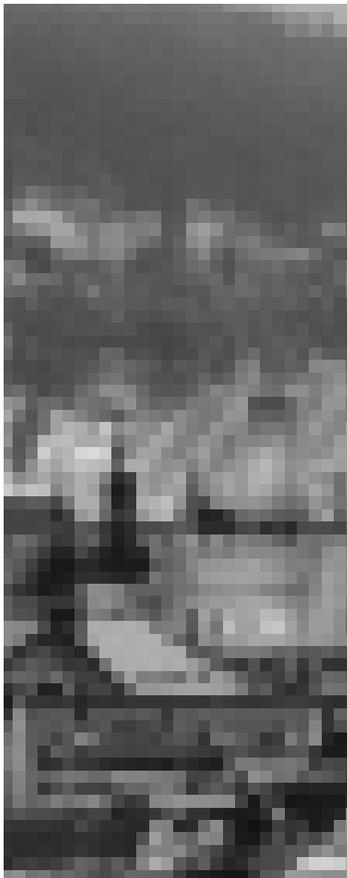
The Supreme Court has determined that where a self-employed person has been hired under a business contract to perform work for a company through a third party who also has a business contract with the company to perform the work, a de facto employment relationship between the self-employed person and the company may arise, particularly where the company provides the self-employed person with facilities, working aids and effectively manages their work. Such self-employed person (de facto employee) will be protected by the Labor Code and in the event of any accident at work, the injury will be compensated as a work-related injury.

**Impact date:** 19 May 2022

**Employer implications/action needed:** Employers utilizing the services of self-employed persons should be alive to the possibility of claims of de facto employment relationships. Companies should ensure that care is taken in the arrangements with the self-employed person and the third party to avoid dependant work with the company, including ensuring that self-employed workers are not directly subordinate to the company and are acting on their own responsibility.

**Employer risk:** Where a de facto employment relationship is claimed to exist between a self-employed person and a company, the relationship risks being assessed as illegal employment for which a fine of up to CZK 10,000,000 (approx. EUR 400,000) may be imposed.

**Link:** [Judgement - No. 21 Cdo 3061/2020](#)



# Czech Republic

## Discount on the compulsory insurance premium for part-timers

A new law has been passed which aims to encourage employers to allow part-time working by introducing a discount on the compulsory insurance premium paid by the employer. The insurance premium can be reduced by 5% if (a) the weekly working hours of an employee is between 8 to 30 hours per week; and (b) the employee is a person over 55 years of age, the parent of a child under 10 years of age, a person caring for a close person, studying at a high school / university or a person with a disability.

**Impact date:** 1 January 2023

**Employer implications/action needed:** Employers should review their policies on part-time working and consider whether they could benefit from the proposed new concession.

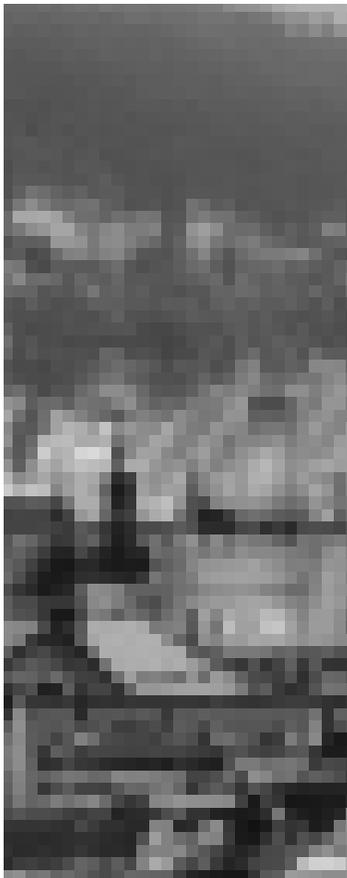
## Whistleblowing

The Czech government has recently submitted a new draft of the whistleblowing legislation implementing the EU Whistleblowing Directive. In summary, this new draft mainly removes certain "gold-plating" (local extension going beyond the requirements of EU law) of the original draft, including the scope of protected notifications and the minimum number of employees for mandatory introduction of internal notification systems.

**Impact date:** 31 July 2023

**Employer implications/action needed:** Employers should monitor the progress of the law. Employers with an existing protected disclosures policy should examine their procedures to ensure compliance with the anticipated changes.

**Links:** [Briefing: The EU acts to accelerate implementation of the Whistleblowing Directive across Member States](#); [Keeping up with EU Directives briefing](#)



# Denmark



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### New work environment rules on remote working and the establishment of a home office

The rules on remote working have been revised. The new rules are relevant for employees utilizing a computer screen while working from home. Previously, an employer must provide equipment for employees working from home if the employee, on average, works remotely once per week. This requirement has been changed to an average of two days per week, thus providing more flexibility regarding remote working.

**Impact date:** 30 April 2022

**Employer implications/action needed:** Employers should review existing policies on remote working.

### Absence from work for special family reasons

An amendment to the Act on Employees' Entitlement to Absence from Work for Special Family Reasons provides that employees are entitled to five days of absence each calendar year to provide care or support to a family member or a person in the household who is in need of substantial care or support due to a health condition. It also provides that employees with children under the age of nine years can request the employer to adjust the employee's working hours or the working pattern for a specified period of time. The employer must consider and reply to the employee's request within a reasonable time. If the employer turns down the employee's request, the employer must provide the employee with a reason.

**Impact date:** 2 August 2022

**Employer implications/action needed:** Employers should review existing absence policies to ensure compliance with the new scheme.

### Equalising leave for parents in connection with childbirth

Legislation is providing for a more equal distribution of leave following the birth of a child between parents by earmarking a term of leave with benefits for each parent. The new Act introduces a 24/24 model which means that each parent is entitled to 24 weeks of leave after the birth. Of these 24 weeks, 11 weeks are earmarked for each parent and 13 weeks may be transferred to the other parent.

Single parents are given the opportunity to transfer part of their leave to a close family member (social parents). Single fathers are equated with single mothers, so both can take up to 46 weeks of leave. LGBT+ families are given the opportunity to divide the leave between up to four parents.

**Impact date:** The new scheme took effect on 2 August 2022. However, single parents transfer of leave to a family member and new provisions on LGBT+ families take effect on 1 January 2024.

**Employer implications/action needed:** Employers should review existing family leave policies to ensure compliance with the new scheme once it becomes effective.

# Denmark

## Extra leave for parents having given birth to three or more children

On 9 June 2022, the Danish parliament has passed a bill in which parents having given birth to three or more children during the same birth are entitled to a total of 26 weeks extra leave with benefits under the Danish Act on Leave and Benefits on Grounds of Pregnancy and Childbirth. The absence must be utilized within 18 months after the birth.

**Impact date:** 1 January 2023

**Employer implications/action needed:** Employers should review existing policies and employment contracts to ensure compliance with the new scheme once it becomes effective.

**Employer risk:** It is expected that the penalty for non-compliance will be a fine.

## Transparent and predictable working conditions

Legislation to implement an EU Directive is being introduced on transparent and predictable working conditions for employees. The Directive adjusts the concept of employee, expands the scope of covered employees, changes the timescale for providing written information to the employee, lists more working conditions that must be disclosed as a minimum and sets new minimum requirements for several working conditions (for further information, read our EU update).

**Impact date:** The Act is expected to enter into force on 1 January 2023.

**Employer risk:** It is expected that the penalty for non-compliance will be a fine.

**Links:** [EU Directive on transparent and predictable working conditions briefing](#); [Keeping up with EU Directives briefing](#)



EU



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### Whistleblowing Directive - Delayed local implementation

A Directive provides EU-wide standards to protect workplace whistleblowers who reveal breaches of EU law in a wide range of areas. Due for implementation by Members States last year, many have yet to do so.

**Impact date:** December 2021 and ongoing.

**Employer implications/action needed:** Monitor local implementation, reflecting the delay, and check for local differences in the way the Directive is being implemented and penalties for breach.

**Employer risk:** The Directive makes it more important than ever for in-scope employers to have set up effective, well-organized and trusted whistleblowing procedures, to have conducted a gap analysis of existing policies against the Directive and to have trained their staff.

**Link:** [Our Whistleblowing update](#)

### August implementation deadline for two Directives

The Directive on transparent and predictable working conditions provides rights for workers to more foreseeable working terms and changes the way they are communicated to them. For example, strengthening the right to receive certain written terms within a week of engagement. The work-life balance Directive aims to increase the participation of women in the labor market, increase the take-up of family-related leave and flexible working arrangements by men and provide opportunities for workers to be granted leave to care for relatives who need support due to serious medical reasons.

**Impact date:** 1 and 2 August 2022.

**Employer implications/action needed:** Monitor local implementation by Member States (see our individual country updates) as some jurisdictions have missed the deadline or are in the process of finalizing changes. Review existing standard terms of employment (including the provision of training, the use of exclusivity and probationary terms, how and when employees are provided with written notification and terms for casual workers) and update paternity, parental, carer and flexible working policies to ensure compliance.

**Employer risk:** The risk of non-compliance differs across Members States and, whatever the legal consequences and particularly considering the current environment where fairness and transparency are seen to be key elements of responsible business practices, there will also be reputational risks for defaulters.

**Links:** [Our update on the transparent and predictable working conditions Directive](#); [Our update on current EU Directives](#)

EU

### Gender and equal pay transparency draft Directive

A proposed EU Directive aims to strengthen the application of the principle of equal pay for equal work or work of equal value between men and women through pay transparency and enforcement mechanisms.

**Impact date:** 2024 or later in Members States, if adopted by the EU.

**Employer implications/action needed:** The proposed Directive lays down several minimum requirements, including a right to certain information on pay at the job application stage and during employment, transparency over the criteria used to determine pay levels and career progression and pay reporting requirements. In some circumstances, there will be an obligation to carry out a joint pay assessment with the workers' representatives and develop an action plan. Given its scope, if adopted by the EU, most Member States will need to change existing legislation.

**Employer risk:** Employers should monitor the progress of the Directive. Develop a strategy to understand current pay practices, any pay differentials and whether current processes may need to change.

**Link:** [Our Pay Transparency briefing](#)

### Platform workers draft Directive

A draft Directive proposes measures to determine the status of people working through digital labor platforms and new rights for both workers and self-employed people regarding algorithmic management. The provisions would increase transparency around the use of algorithms, give workers the right to contest automated decisions and introduce a rebuttable employment status presumption for platform workers. To determine status, a list of criteria is proposed to be applied to determine whether the platform is an "employer". If the platform meets at least two of those criteria, it is legally presumed to be an employer (platforms will have the burden of proving that is incorrect).

**Impact date:** 2024 or later in Member States, if adopted by the EU.

**Employer implications/action needed:** Employers should monitor the progress of the Directive and platform employers should assess its proposed impact on business models.

**Employer risk:** If adopted, the proposals could mean that some platform workers, currently classified as independent contractors, have their employment status reclassified where the employer exercises a degree of control, thereby increasing legal, financial and operational risks. If the algorithm proposals are adopted, employers should prepare for greater transparency as well as ensuring human input into significant employment decisions.

**Link:** [Our update on current EU Directives](#)



EU



### Corporate sustainability due diligence draft Directive

A draft Directive aims to enact due diligence, reporting and directors' duties in relation to the environment and human rights. It is estimated that about 13000 EU companies and 4000 non-EU companies are within the proposed scope of the Directive.

**Impact date:** 2024 or later in Members States, if adopted.

**Employer implications/action needed:** If agreed, companies would have to integrate due diligence into their policies and take appropriate measures to identify, prevent, mitigate, bring to an end or minimize actual or potential adverse impacts (including by the payment of damages) arising from their own operations, their subsidiaries and, where related to their value chains, from their established business relationships. Some variations apply to smaller companies.

**Employer risk:** If implemented, the extensive due diligence duties (for those companies in scope) would necessitate leadership, training, resourcing, investment, procurement changes and capability-building. The proposals also aim to link directors' pay and duties, and the company's strategy, to climate change and sustainability interests.

**Link:** [Our briefing](#)

### Minimum wage draft Directive

A proposed Directive on minimum wages aims to create a framework to improve the adequacy of minimum wages and increase the access of workers to minimum wage protection in the EU.

It proposes to do this in three ways:

- through improved adequacy of statutory minimum wages (where they exist)
- the promotion of collective bargaining in all Member States
- through better enforcement and monitoring.

**Impact date:** 2024 or later in Members States, if adopted.

**Employer implications/action needed:** The draft Directive is aimed primarily at Member States, not employers. Monitor progress of the Directive as it progresses through the EU legislative process.

**Employer risk:** The proposal does not seek to harmonize the level of minimum wages across the EU, nor to establish a uniform mechanism for setting minimum wages. Instead, Member States with statutory minimum wages will be required to put in place certain controls for adequate statutory minimum wages, including setting clear and stable criteria, providing for regular and timely updates, and effective involvement of social partners.

**Link:** [Our update on current EU Directives](#)

EU

### Gender balance on company boards draft Directive

The EU has agreed that a new Directive will require that with effect from 30 June 2026, listed companies should aim to have at least 40% of their non-executive director positions held by members of the “under-represented sex” (usually women) by 2026. If it is decided to apply the new rules to both executive and non-executive directors (it should be noted that this is a decision for Member States, not employers), the target is 33% of all director positions by 2026.

**Impact date:** Ongoing and 2026.

**Employer implications/action needed:** Monitor local implementation of the Directive as it provides for the suspension of some of its requirements. Ensure there are transparent and fair senior recruitment processes. Such processes may need to include giving priority to candidates of an under-represented sex when choosing between equally qualified candidates.

**Employer risk:** Check local implementation for sanctions. If companies cannot reach the targets, they must put in place transparent procedures for the selection and appointment of board members designed to rectify the situation – such as a comparative assessment of the different candidates based on clear and neutrally formulated criteria.

**Link:** [Our update on current EU Directives](#)



# Finland



## Contact



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### Weakening terms of the employment contract by collective bargaining agreement (case law)

The Finnish labor market organizations concluded a Competitiveness Pact by which annual working hours were to be increased by 24 hours without changing the level of earnings (it was to be agreed locally how to implement the 24-hour annual working time extension at each workplace). The employer company had made such a local agreement according to which half an hour was added to the weekly working hours of the employees. The employee claimed that the employer was not entitled to extend the weekly working hours this way and demanded salary for the extra time.

The Supreme Court ruled that: terms of employee's own individual employment contract could be weakened by a collective bargaining agreement (CBA) provided that this intention of the parties to such a CBA is clearly stated in the agreement or if this is otherwise obvious; but the terms of the CBA may not in any case materially worsen the terms agreed for the employee in the employment contract in such a way that it would be deemed unreasonable; the materiality and reasonableness of the change must be weighed as a whole and in relation to the principle of employee protection and the binding nature of contracts.

**Impact date:** 30 June 2022

**Employer implications/action needed:** Employers should carefully assess in each case whether the CBA's provision allows to derogate from the individual employment contract's more favorable term to the employee's detriment especially if this possibility does not appear clearly from the CBA's provision in question.

**Employer risk:** Employees might present claims against the employer if the employer based on the applicable CBA's provision deteriorates the better and more favorable terms for the employees agreed in the individual employment contracts.

**Link:** [Link to judgement](#) (only available in Finnish)

### Family leave reform

Family leave is being reformed to grant both parents an equal quota of parental leave and to provide that parents can take leave over several periods before their child reaches the age of two. The amount of periods in which the leave may be taken has been increased. Parents may also transfer some of their own leave days to the other parent, custodian, their spouse or the spouse of the other parent. The Finnish Social Insurance Institution pays benefits for the periods of leave. The reform also includes a new unpaid carer's leave of up to five days per year. The carer's leave supports care for a close relative, such as the employee's child, spouse or parent. It will accrue annual holiday.

**Impact date:** 1 August 2022

**Employer implications/action needed:** Employers should review the new legislation to ensure compliance with the new family leave provisions.

**Employer risk:** Breaches of family leave rights could under certain circumstances lead to liability to pay compensation under the Act on Equality between Women and Men or even criminal liability for work discrimination.

**Link:** [Family leave reform enters into force in August 2022](#)

# Finland



## Strengthening the rights of variable hours employees

Several labor laws have been reformed to strengthen the position of employees working on variable working hours. On the basis of the reform, an employer will have a more active role in assessing whether the variable working hours match the employer's actual need for workers. It will require the employer to at least every 12 months assess how the variable working hours agreed in the employment contract have materialized. If it is shown that the minimum working hours agreed could be increased, the employer must offer the employee an agreement to amend the contract provision regarding working hours.

The employer's obligation to request the employee's permission for shifts will also be extended and, if the employer cancels a shift in accordance with law or the applicable Collective Bargaining Agreement, the employer must in certain cases pay compensation for the cancellation. In addition, other changes have been introduced to comply with the EU Directive 2019/1152, including requiring the employer to better inform the employee of the terms of employment.

**Impact date:** 1 August 2022

**Employer implications/action needed:** Reforms are particularly relevant for employers employing personnel with variable working hours who should assess how the possible amendments would affect their employment relationships.

**Employer risk:** Employers employing staff with variable working hours may be required to amend the contract terms regarding working hours if the actual need for workers can be deemed to exceed the minimum working hours agreed, which in turn will lead to an obligation for the employer to offer more work. While this obligation already exists under the current law, the new legislation further strengthens it.

**Links:** [Government's proposal](#) (only available in Finnish); [EU Directive on transparent and predictable working conditions briefing: Keeping up with EU Directives briefing](#)

[Position of employees working variable hours to be strengthened – improvements also to be made to predictability and transparency of conditions of employment](#)

# Finland



## Changes to promote employment of those aged 55 and over

The Finnish Parliament has approved legislative amendments which are intended to promote employment of persons aged 55 and over, and to improve their ability to work.

Under the legislative amendments, the possibility of obtaining additional days of unemployment allowance (the unemployment pathway to retirement) will be eliminated for those born in 1965 and thereafter. At the beginning of 2023, the changes will also affect those that have been born in 1963 and 1964 (the minimum age requirement will be raised to 63 and 64 years respectively). Employers will no longer have to pay the so-called liability component for employees born in or after 1965 under certain conditions when they have made the employee redundant.

In addition, to expedite the re-employment of older redundant workers, for employees aged 55 years and over who have been made redundant on financial and production related grounds (conditions apply) there is a new allowance and training. The allowance is financed through the Employment Fund by collecting a restructuring protection fee from employers.

The entitlement to statutory employment leave will be extended for employees who have turned 55 years and who have worked for the same employer for at least five years and will be 5, 15 or 25 days depending on the duration of notice period. The right of over 55-year-olds who have worked for the same employer for at least three years to reduced working hours in certain circumstances will be strengthened.

**Impact date:** 1 January 2023

**Employer implications/action needed:** Reforms are particularly relevant for employers who are going to terminate employment of employees of 55 years or more on financial and production related grounds on or after January 1, 2023.

**Employer risk:** Employer who terminates employment of an employee who is 55 years or more on financial and production related grounds may need to pay the restructuring protection fee under certain conditions (i.e. if its payroll on which the unemployment insurance contribution is based exceeds a specific minimum level in the year preceding the date of dismissal).

**Links:** [Government's proposal](#) (only available in Finnish), [Employment Fund - The new act on restructuring protection will enter into force in January 2023 \(tyollisyssrahasto.fi\)](#)

[Employment Fund - Liability component will be discontinued after a transition period \(tyollisyssrahasto.fi\)](#)

# France



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### Labor Code regulatory change: new economic, social and environmental database

Changes have been made to the regulatory section of the Labor Code, with new information required to be included in the (newly named) economic, social and environmental database (BDESE) of companies that are not covered by a collective agreement. Changes to, or new, BDESE information include:

- the employer's general environmental policy including assessment or certification processes, where applicable
- the circular economy including waste prevention and management, sustainable use of resources
- climate change: the identification of direct greenhouse gas emissions and their volume, when possible
- new environmental content is added into the training for SEC members and for employees exercising trade union duties
- companies with at least 300 employees no longer have to report on the number of disabled workers as at 31 March, but must state their numbers for the year in question
- changes in the information to be given on accidents at work and exposure to difficult working conditions
- companies with more than 300 employees must now report the number of occupational health information and prevention visits and the number of medical examinations carried out.

**Impact date:** 28 April 2022

**Employer implications/action needed:** Employers should create a new section dedicated to the environment and three new sub-sections on their general policy on the environment, the circular economy, and climate change.

### Macron Scale upheld (case law)

A scale applies for determining the compensation that an employer must pay to employees when they are dismissed without a real and serious cause. This scale is based on the employees' salary and takes into account their length of service. Employees and trade unions brought a claim to the labor court challenging the legality of the scale. The Cour de cassation confirmed the lawfulness of the scale.

**Impact date:** 11 May 2022

**Employer implications/action needed:** N/A

**Link:** [Judgement: Appeal No. 21-15.247](#)

# France

## Mutual termination payment where the employee dies before the termination date (case law)

A mutual termination payment claim arises as soon as the agreement is approved, even if it is only payable on the date set for termination. The Cour de cassation has held that if the employee dies after the agreement has been approved, the payment must be made to the assignees, even if the effective termination date has not yet been reached.

**Impact date:** 11 May 2022

**Employer implications/action needed:** N/A

**Employer risk:** N/A

**Link:** [Judgement - Appeal No. 20-21.103](#)

## Validity of a Social Support Plan despite failure to fully fulfil redeployment obligations (case law)

The social plan implemented by a company in the context of a collective redundancy can be approved by the French administration even if said company has not completely fulfilled its redeployment obligations in France. In this case, the labor administration (Direccte) had approved a unilateral document setting the content of the social plan of a company in court-ordered liquidation providing for the closure of 140 jobs. The employees and a trade union litigated and argued that the plan should be canceled on the grounds that, on the date the unilateral document was approved, the liquidators had not contacted the other group company with an entity on the national territory. Failure to contact the other group company located in France is proof that the company had not sought out all available job positions in France, and thus failed to comply with its redeployment obligations.

The Supreme Court considered that such a failure, in the context of a company in liquidation, should not prevent the administration from approving the social plan which was valid.

**Impact date:** 1 June 2022

**Employer implications/action needed:** N/A

**Employer risk:** N/A

**Link:** [CE - 1st June 2022 - no. 434225](#)



# France



## End of Preliminary Hiring Declarations by email

As of 1 July 2022, Preliminary Hiring Declarations (DPAE) can no longer be sent by e-mail. Transmission by CFT flow will also be stopped at the end of 2022. Other existing electronic transmission solutions, such as 'Api DPAE' or 'upload', will be accessible.

**Impact date:** 1 July 2022

**Employer implications/action needed:** Employers should contact their payroll software provider or the structure that usually transmits their DPAEs to consider the most suitable solution for their needs.

**Employer risk:** Civil, criminal and administrative penalties for failure to comply with the Preliminary Hiring Declaration (DPAE).

**Link:** [Urssaf website](#)

## Additional minimum wage increases

The minimum wage rates (SMIC) have been increased by 2.65% as of 1 May 2022 as follows:

- hourly SMIC: €10.85
- monthly SMIC: €1,645.58

Effective 1 August 2022, the minimum wage rates (SMIC) will increase for the third time this year, by 2,01% as follows:

- hourly SMIC: €11.06
- monthly SMIC: €1,677.42

**Impact date:** 1 August 2022

**Employer implications/action needed:** Employers should check that all employees are being paid at least the updated minimum wage rates.

# France

## Whistleblowing – Implementing the EU Directive

A law has been adopted to implement the EU Whistleblowing Directive. It makes the following changes:

- clarifies the definition of whistleblower, the scope of information considered as a report and updates the list of applicable secrets
- previously, a whistleblower had to act “in a disinterested manner” and this ambiguous notion has been replaced by the absence of financial compensation. The aim is to make the admissibility of whistleblowing more flexible
- previously, the whistleblower had to have “personal” knowledge of the facts they were reporting. This condition is removed in the professional sphere. In this context, a whistleblower may report facts that have been reported to them
- extends some of the protections offered to whistleblowers, including protection against retaliation to people and not-for-profit legal bodies (trade unions and associations) who are in contact with the whistleblower and facilitators who help with the reporting or disclosure (colleagues, relatives, etc)
- removes the hierarchy of warning levels introduced by the loi Sapin II. The whistleblower will now be able to choose between internal and external reporting to the competent authority, the Human Rights Defender, the courts or a European body. Public disclosure will still only be possible in certain situations.

**Impact date:** 1 September 2022

**Employer implications/action needed:** Employers should monitor the progress of the law. Employers with an existing protected disclosures policy should examine their procedures to ensure compliance with the anticipated changes.

**Links:** [Law No. 2022-401 of 21 March 2022 aimed at improving the protection of whistleblowers](#); [Briefing: The EU acts to accelerate implementation of the Whistleblowing Directive across Member States](#); [Keeping up with EU Directives briefing](#)



# Germany



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### New works council elections

Works council elections were held from 1 March to 31 May 2022. Consequently, if a private sector establishment has at least five employees aged 18 or over, they are entitled to elect a works council. However, at least three employees need to have been with the establishment for at least six months (this is the requirement to be eligible for office) unless the establishment is itself less than six months old.

**Impact date:** 1 March to 31 May 2022.

**Employer implications/action needed:** Works council members as well as designated works council members and members of the election committee have enhanced protection against dismissals. Where an employer considers the termination of employment of any such individuals, the prior consent of the works council is required. In addition, once established, the works council has a right to participate and co-determine on certain matters, including in relation to social matters, the layout of the workplace and organization of work, staff matters and particular commercial issues.

**Employer risk:** Where required, if an employer acts without the involvement of the works council, the measure risks being deemed unlawful and ineffective. Prior to every measure taken, employers should therefore check whether an information or co-determination right of the works council exists. Where such a right exists, it should involve the works council in good time prior to the measure being taken.

### No documentation requirement for overtime (yet) (case law)

An employee claimed overtime pay. Since the employer's technical attendance recording system did not allow breaks to be entered, the court held that the burden of proof that the employee had not worked the overtime in question lay with the employer, based on EU case law. However, in that EU case, the European Court of Justice (ECJ) clarified that its ruling did not have direct application and working time recording obligations must first be implemented by the national legislators. This has not yet been done in Germany. On appeal, the court confirmed that the ECJ ruling does not change the burden of proof regarding the payment of overtime.

**Impact date:** 4 May 2022

**Employer implications/action needed:** At present and while the working time recording obligation from the ruling of the ECJ is not implemented into law by Germany, there is no change in the burden of proof regarding the payment of overtime. This means that the burden still rests with the employee.

**Employer risk:** N/A

**Link:** [Judgement](#)

# Germany



## Necessity of transmitting the number and names of severely disabled persons/equals to the works council (case law)

The conditions under which the works council may request data on employees from the employer is problematic if the data is sensitive or it is against the employee's will.

A works council asked the employer for information on all severely disabled persons employed in the company and for a copy of the list of all severely disabled persons or persons with equivalent disabilities employed in the company. The employer refused and a court upheld the works council's request because the information was needed as part of potentially electing a severely disabled representative. Furthermore, the court ruled that the works council needed their names to be able to address the affected employees and to evaluate their work situation, which is one of the main obligations of the works council. The court did not see any other less severe alternatives in the circumstances.

**Impact date:** 20 May 2022

**Employer implications/action needed:** Employers need to take this decision into account when deciding whether sensitive data is provided to the works council.

**Employer risk:** No risks.

**Link:** [http://lrw.juris.de/cgi-bin/laender\\_rechtsprechung/document.py?Gericht=bw&nr=37924](http://lrw.juris.de/cgi-bin/laender_rechtsprechung/document.py?Gericht=bw&nr=37924)

## Works councils' right of co-determination in wage setting (case law)

Works councils have a right of co-determination in matters relating to company wage structures, insofar as no statutory or collectively agreed regulation exists. This relates in particular to the determination of remuneration principles and the introduction and application of new remuneration methods as well as their modification. However, the works council can only co-determine whether a special payment should be introduced at all or the modalities of the payments. The amount, however, is in the sole discretion of the employer. The works council can also only co-determine whether a voluntary payment is implemented or not. Once implemented the employer can decide in its sole discretion whether such a payment is made or not (as it is voluntary in nature).

A court has clarified that if the works council refuses to give its consent to a voluntary payment, conciliation proceedings can be conducted. The consent refused by the works council can then be replaced by a resolution of the conciliation body. If the conciliation body complies with the employer's request, its decision is not binding in the sense that such payment is then compulsory. Since the right of co-determination does not include the right to enforce a voluntary benefit, the decision of the conciliation body cannot establish such an obligation.

**Impact date:** 20 May 2022

**Employer implications/action needed:** Not action needed.

**Employer risk:** No risks.

**Link:** [https://www.justiz.nrw.de/nrwe/arbgs/koeln/lag\\_koeln/j2022/9\\_TaBV\\_19\\_22\\_Beschluss\\_20220520.html](https://www.justiz.nrw.de/nrwe/arbgs/koeln/lag_koeln/j2022/9_TaBV_19_22_Beschluss_20220520.html)

# Germany

## German Confirmation Act updated – Providing employees with written conditions

Employers must inform their employees in writing about the essential terms and conditions of the employment in writing, i.e. signed wet-ink, and the list of essential terms and conditions that must be notified to employees has been expanded. A failure to comply does not lead to severe (financial) consequences.

In particular, the following information must be (additionally) been provided in writing to the employee:

- the end date in the case of fixed-term employment relationships
- the possibility for employees to freely choose their respective place of work, if agreed
- the duration of the probationary period, if agreed
- the remuneration for overtime
- the due date for payment of wages and the form in which wages are paid
- the agreed rest breaks and rest periods and, if shift work has been agreed, the shift system, shift rhythm and conditions for shift changes
- details of on-call work, if agreed
- the possibility of ordering overtime and its conditions
- any entitlement to training provided by the employer
- the name and address of the pension provider of the company pension scheme, if such a pension is granted
- the procedure to be followed by the employer and the employee when terminating the employment relationship, at least the written form requirement and the deadlines for terminating the employment relationship as well as the deadline for bringing an action for protection against dismissal
- a reference to the applicable collective bargaining agreements, works or service agreements.

For new hires (employed from 1 August 2022), all essential terms and conditions must be submitted in writing. Existing employees may request written notification and must be informed about any change of their essential terms and conditions.

**Impact date:** 1 August 2022

**Employer implications/action needed:** We would recommend including all essential terms and conditions pursuant to the updated German Confirmation Act in the employment contract and hand a wet-ink-signed version to the employee.

**Employer risk:** Failure to comply can lead to penalty fees of up to EUR 2,000.00 gross per employee.



# Hong Kong



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### Gradual increase of statutory holidays in 2022

The Employment (Amendment) Ordinance 2021 ("Amendment Ordinance") increases the number of statutory holidays in Hong Kong progressively from 12 to 17 days by 2030. The first statutory holiday to be added to the statutory holiday calendar is 8 May 2022, followed by the first weekday after Christmas Day (i.e. Boxing Day) (from 2024), Easter Monday (from 2026), Good Friday (from 2028), and the day following Good Friday (from 2030).

**Impact date:** 8 May 2022

**Employer implications/action needed:** Employers should review leave policies to ensure that all employees are granted at least the minimum amount of statutory holidays.

**Link:** [Hong Kong Government Press Release – Progressive increase of statutory holidays from this year](#)

### Employment changes due to COVID-19 policy

New legislation provides clarity on certain employment issues caused by the government's COVID-19 policy. It includes provision for a valid dismissal for employees who refuse to be vaccinated, subject to conditions, and expands the definition of a "sickness day" to include absence from work due to compliance with COVID-19 measures.

**Impact date:** 17 June 2022

**Employer implications/action needed:** Employers are required to pay a sickness allowance at the rate of 4/5 of the employee's daily average wages for an employee who is absent due to compliance with COVID-19 restriction measures, upon satisfaction of the relevant criteria.

**Employer risk:** If an employer terminates the contract of an employee who is absent from work due to compliance with COVID-19 measures, an employer is liable to prosecution, and, upon conviction, to a fine of HK\$100,000, in addition to paying the dismissed employee the compensation they are entitled to.

**Links:**

[New employment legislation regarding COVID19 & vaccination - Eversheds Sutherland \(eversheds-sutherland.com\)](#)

[Further proposals on the Employment Bill - Eversheds Sutherland \(eversheds-sutherland.com\)](#)

# Hong Kong



## Employment Support Scheme 2022

The new Employment Support Scheme (“ESS 2022”) provides financial support to workers by providing their employers with three months of wage subsidies. It aims to help employers retain employees who may otherwise have been made redundant and is focused on helping small and medium enterprises (SMEs).

Each eligible worker with a monthly salary of HK\$8,000 or above will receive a subsidy of HK\$24,000 over a three-month period. While there is no salary cap, the number of eligible employees from each employer will be capped at 1,000. Employers may choose to calculate the number of their employees based on employee data in the fourth quarter of 2021. Some employers are ineligible to receive the subsidies (including publicly funded organizations) and some, such as supermarkets, pharmacies and delivery firms which have not been negatively impacted by the pandemic, may only claim subsidies for a maximum of 100 employees. Employees with a lower monthly salary and the self-employed may also be eligible for ESS 2022 payments at a different rate.

**Impact date:** May to July 2022.

**Employer implications/action needed:** Employers who wish to participate in the ESS 2022 must undertake and warrant that:

1. they will not exceed the employee headcount above the approved level for which the ESS 2022 subsidies have been paid and
2. they will only spend the wage subsidies on paying wages to their employees who are the intended beneficiaries of the ESS 2022.

**Link:** [What we know \(and don't yet know\) about the Employment Support Scheme 2022 \(es-notifications.com\)](https://www.es-notifications.com/what-we-know-and-dont-yet-know-about-the-employment-support-scheme-2022)

## Abolition of the pension offsetting arrangement

The Hong Kong government has passed new legislation which will abolish the use of accrued benefits of employers’ mandatory pension contributions to offset statutory severance and long service payments.

**Impact date:** 2025

**Employer implications/action needed:** The abolition of the pension offsetting arrangement will affect only employees who are currently covered by the Mandatory Providence Fund legislation. This means that it will not affect workers such as domestic helpers or those who are under other statutory retirement schemes. If the legislation is enacted, employers will need to keep wage and employment records of their employees for the 12 months (or a shorter period if the employee has worked less than 12 months) immediately prior to the transition date.

**Employer risk:** It is anticipated that more labor disputes between employees and employers over statutory severance/long service payment claims will arise after the abolition of the offsetting arrangement takes effect. We advise employers to revisit the situation in late 2024 when the regulatory expectations are more clearly communicated.

**Link:** [Major changes to Hong Kong separation payments in the pipeline \(es-notifications.com\)](https://www.es-notifications.com/major-changes-to-hong-kong-separation-payments-in-the-pipeline)

# Hungary



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### Teleworking – New rules

The temporary regulations adopted by the Government due to COVID-19 are no longer in force. However, an amendment of the Labor Code means that new rules apply to teleworking.

Employees working under teleworking arrangements can work all or part of their working time at a place separate from the employer's premises. Telework arrangements, including home office working, must be agreed between the employer and the employee in writing and neither party can unilaterally order or demand it. Employers must inform employees in writing of the rules on safe working conditions, and which are necessary for the performance of the work. In choosing the place of work, the employees working under teleworking arrangements must take account of such conditions.

**Impact date:** 1 June 2022

**Employer implications/action needed:** Employers operating teleworking arrangements should take note of the new rules. Employment contracts should be amended to reflect any teleworking arrangements, a tax-free allowance may be payable to any teleworkers, and home office policies may need to be reviewed and updated.

**Link:** Sections 196-197 of the Labor Code - <https://net.jogtar.hu/jogszabaly?docid=a1200001.tv>

# Ireland



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### Gender pay gap regulations

The Gender Pay Gap Information Act 2021 (the “2021 Act”) introduced a legislative basis for gender pay gap (“GPG”) reporting. The 2021 Act requires employers to report on their hourly gender pay gap across a range of metrics. The Government has now published the GPG Regulations.

The GPG Regulations apply to employers with more than 250 employees in the first two years after the introduction of the GPG regulations. In the third year, the requirements will also apply to employers with 150 or more employees. Employers are required to have chosen a snapshot date in June 2022. The GPG reporting deadline will be six months after the snapshot date. The reporting period is the 12-month period prior to and including the snapshot date.

**Impact date:** 30 May 2022

**Employer implications/action needed:** Employers with over 250 employees by now should have prepared for their chosen snapshot date in June by:

- gathering the necessary pay data from payroll
- including benefits in kind and bonuses
- liaising with HR to collect people data and ensure that all data is up to date
- developing initiatives to reduce existing pay gaps, and promote and improve gender equality
- and connecting with PR or communications teams to assist in writing the GPG report.

**Employer risk:** If an employer fails to publish a report, the 2021 Act provides the Irish Human Rights and Equality Commission with the power to make an application to either the Circuit Court or to the High Court for the granting of an order requiring the employer to comply with the 2021 Act.

The 2021 Act also provides that an employee who claims that their current employer has failed to comply with the 2021 Act may refer their employer to the Director General of the Workplace Relations Commission. The Director General shall investigate the complaint if they are satisfied that there is a prima facie case to warrant the investigation.

**Links:** [Gender Pay Gap Information Regulations 2022 How to report on the Gender Pay Gap \(Government Guidelines\)](#); [Gender Pay Gap Information Reporting: FAQs for employers \(Government Guidelines\)](#); [How to calculate the gender pay gap metrics \(Government Guidance note\)](#); [Information on the Gender Pay Gap Information Act 2021](#)

# Ireland



## Mutuality of obligation required to constitute employment contracts (case law)

The Court of Appeal found that delivery drivers of Domino's Pizza franchise must be treated as self-employed and independent contractors, rather than pay as you earn workers. The Court held that no mutual obligation existed on the part of the employer to provide work for the employee nor on the employee to perform work for the employer. The absence of such obligations meant that the delivery drivers were not engaged in employment contracts with the Domino's Pizza branch.

**Impact date:** 31 May 2022

**Employer implications/action needed:** Employers must continuously review their contracts to ensure they reflect the nature of the relationship with the employee or contractor. Employers should ensure contractors are not integrated into their business.

**Employer risk:** If an obligation to provide a certain amount of work to contractors can be established, and the contractor is under obligation to do the work once offered it, they may be classified as employees.

**Link:** Karshan (Midlands Ltd) T/A Domino's Pizza v The Revenue Commissioners. The three judgments are available [here](#), [here](#) and [here](#).

## Updates to parent's leave and paternity leave entitlements and definition

The parent's leave entitlement, available to anyone with a child under two years of age or who adopted a child within the last two years, has been extended from five to seven weeks.

The definition of a "relevant parent" who is entitled to leave and benefits:

- **Parent's Leave and Benefit Act 2019:** the definition covers either parent of a child; adopting parents and their spouses, civil partners or cohabitants; each member of a couple in the case of a child adopted by married couples of the same sex, civil partners or cohabiting couples of the same sex; and a parent of the child where the child is donor-conceived.
- **Paternity Leave and Benefit Act 2016:** the definition covers the father of the child; the spouse, civil partner or cohabitant of the child's mother or that of an adopting mother in such a case; a parent of the child where the child is donor-conceived; and where a child is adopted by a married couple of the same sex, the spouse chosen by that couple to be the relevant parent to avail of Paternity Leave and Benefits.

**Impact date:** 1 July 2022

**Employer implications/ action needed:** Employers should review and update their parent's leave and paternity leave policies to reflect the new changes.

**Employer risk:** Where there is a dispute between an employer and an employee concerning an employee's entitlement to parent's leave and benefit or paternity leave and benefit, the Workplace Relations Commission may award an employee up to two weeks' remuneration if they find that an employer has denied them their entitlement to such benefits.

**Links:** [Parent's Leave and Benefit Act 2019](#); [Paternity Leave and Benefit Act 2016](#); [Parent's Leave and Benefit Act 2019 \(Extension of Periods of Leave\) Order 2022](#)

# Ireland



## Protection of tips and gratuities

The Payment of Wages (Amendment) (Tips and Gratuities) Act 2022 (the “Act”) has now been signed into law by the President. The purpose of the Act is:

- to provide further protection for employees in relation to the payment of wages
- to provide for the treatment of tips and gratuities made to or left for employees and contract workers
- to provide for obligations on employers to fairly distribute tips and gratuities
- to provide for obligations on employers to inform the public of the treatment of tips and gratuities.

**Impact date:** Q3 2022 – awaiting commencement order.

**Employer implications/action needed:** Employers may only maintain a portion of tips or gratuities that is fair and reasonable in relation to the work the employer performs, or where the employer participates in the same work as the relevant employees. Employers must provide, within 10 days of distribution of tips and gratuities for a relevant period, a statement to the relevant employee outlining the total amount of tips and gratuities distributed during the relevant period, and the amount distributed to the relevant employee for such period.

**Employer risk:** Any employer who contravenes their responsibilities relating to the distribution of tips and gratuities provided for in the Act shall be guilty of an offence and shall be liable upon conviction to a Class C fine.

**Link:** [Payment of Wages \(Amendment\) \(Tips and Gratuities\) Bill 2022](#)

## Whistleblowing changes

The Protected Disclosures (Amendment) Act 2022 (the “Act”), which transposes the EU Whistleblowing Directive into Irish law, has now been signed into law by the President.

**Impact date:** Q3 2022 – awaiting commencement order.

**Employer implications/action needed:** Employers with an existing protected disclosures policy should examine and amend their procedures to ensure compliance with the proposed changes. The Act requires all public sector organizations and all private sector organizations with 50 or more employees to establish formal channels and procedures for their employees to make protected disclosures (a derogation from this requirement applies to undertakings that employ between 50-249 employees until 17 December 2023). Those employers falling into these categories without existing channels and procedures should therefore take steps to establish such processes, taking account of the requirements of the Act.

**Employer risk:** In terms of additional and new redress, the Act allows the Workplace Relations Commission or Labor Court to award compensation of up to €15,000 for individuals not directly employed or in receipt of remuneration, including, for example, job applicants and volunteers. The Act provides that interim relief can be obtained before the Circuit Court in all cases where a worker alleges penalisation, not just in circumstances where the worker has been dismissed. Criminal sanctions may be imposed on those who hinder a person from making a report or penalise a reporting person. In addition, employers who commit an offence under the Act may be liable for fines not exceeding €250,000 or to imprisonment of up to two years, or both.

**Links:** [Protected Disclosures \(Amendment\) Bill 2022](#); [Briefing: The EU acts to accelerate implementation of the Whistleblowing Directive across Member States](#); [Keeping up with EU Directives briefing](#)

# Ireland



## Enhanced statutory sick pay

The Sick Leave Act 2022 has now been signed into law by the President. Once enacted, employees will be eligible to receive statutory sick pay after 13 weeks of continuous service. They will be entitled to paid sick leave for up to three days in 2022. This will increase to five days in 2024, seven days in 2025 and ten days in 2026. Such sick leave days do not have to be consecutive. The rate of payment for statutory sick leave will be 70% of normal wages to be paid by employers (up to a maximum of €110 per day). The statutory sick leave obligations will not apply to an employer who provides their employees with a sick leave scheme where the terms of the scheme give benefits that as a whole are more favorable to the employee than statutory sick leave.

**Impact date:** Q3 2022 – awaiting commencement order.

**Employer implications/action needed:** Employers should review their sickness and absence policies and contracts to ensure that they reflect this new entitlement. Employers are required to keep a record of the paid sick leave taken by each of their employees, which should include the period of employment of each employee who avails of such leave, the dates and times of the leave taken, and the rate of payment of the leave for each employee.

**Employer risk:** Where there is a dispute between an employer and employee concerning the employee's entitlement to statutory sick pay ("SSP"), the Workplace Relations Commission may award an employee up to four weeks' remuneration if they find that an employer has denied them their entitlement to SSP. Any employer who fails to comply with the record keeping requirement of the legislation may be found guilty of an offence.

**Link:** [Sick Leave Bill 2022](#)

# Ireland



## Right to request flexible working

The purpose of the Right to Flexible Work Bill 2022 (the "Bill") is to:

- provide employees with a right to make a request for flexible work
- require employers to deal with requests for flexible work within a four week period
- provide that an employer may refuse a request only on grounds of reasonable practicability
- require employers to maintain a policy on flexible work which can be inspected by employees and the Workplace Relations Commission and
- provide a right of appeal in certain circumstances against a refusal of flexible work.

The Workplace Relations Commission will publish a Code of Practice on the general principles applicable to the statutory right to request flexible working.

**Impact date:** Q3/Q4 2022

**Employer implications/action needed:** Employers must ensure that they have in place a written policy on flexible working which is available to employees and complies with the legislation once enacted. This policy should set out the process for requests being made and considered, including an appeals process for employees who have their requests refused. Employers should be prepared to consult with employees regarding any proposed change to an existing policy or when implementing a new policy. The policy must be brought to the attention of employees upon commencement of employment and at least annually, or when amended, thereafter.

**Employer risk:** Employers that fail to implement and apply the new requirements risk employees bringing complaints to the Workplace Relations Commission. They may also be liable on summary conviction to a Class C fine not exceeding €2,500. It will, however, be a defense for the employer to prove that it exercised due diligence and took reasonable precautions to ensure that the legislation was complied with.

**Link:** [Right to Flexible Work Bill 2022](#)

## National minimum wage - Interns

The purpose of the National Minimum Wage (Payment of Interns) Bill 2022 (the "Bill") is to provide for the payment of the national minimum wage to certain persons doing work as interns or on work experience. The Bill proposes to amend the National Minimum Wage Act 2000 to ensure that an employee who does more than 30 hours of work within any period of four weeks for another person is paid.

**Impact date:** Awaiting.

**Employer implications/action needed:** Employers should be aware that should this Bill be passed in the future, this will apply to employees who: have not entered into/do not have a contract of an employment; are referred to as described as a trainee, an intern or a person on work experience.

**Employer risk:** Employers should monitor the status of the Bill.

**Link:** [National Minimum Wage \(Payment of Interns\) Bill 2022](#)

# Ireland



## Proposals for a national living wage

The Government has announced proposals for the introduction of a living wage for all employees by 2026, alongside the phasing out of the National Minimum Wage over a four-year period. The proposals follow the announcement of a provisional agreement on the Draft EU Directive on Adequate Minimum Wages in the European Union (the "Draft Directive") in June 2022. The living wage rate will be calculated as a percentage of a benchmark figure. The proposal is to set the fixed threshold at 60% of the median wage, with the median wage being calculated as the median hourly wage of all employees (public and private sector).

**Impact date:** Awaiting.

**Employer implications/action needed:** Once fully implemented, the living wage will be mandatory for all employers. Employers should be aware that when these proposals come in to effect they will apply to employees currently on the National Minimum Wage, therefore contracts of employment with such employees will need to be updated to reflect the new wage threshold.

**Employer risk:** In line with the Draft Directive employees shall have the right to redress and remuneration where their right to a living wage has been infringed. It is expected that the current provisions which currently govern the enforcement of payment of the National Minimum Wage shall transfer to the living wage, such that any employer who refuses or fails to remunerate an employee at a rate in line with the living wage rate shall be guilty of an offence, and any employee subjected to such an offence may seek redress before the Workplace Relations Commission.

**Links:** [Tánaiste outlines proposal to bring in living wage for all](#); [Council and European Parliament Reach Provisional Agreement on Adequate Wages](#)

## Extending work-life balance rights

Proposed legislation will transpose elements of the EU Directive on work-life balance for parents and carers. It will apply to parents and carers whose rights will be extended through a right to request flexible working; the introduction of five days unpaid leave per calendar year for serious medical care; and the extension of the existing entitlement to breastfeeding breaks from six months to two years.

**Impact date:** Awaiting.

**Employer implications/action needed:** Employers should review their policies and contracts to ensure that they reflect these new entitlements.

**Employer risk:** An employee who is dismissed for exercising or proposing to exercise their right of leave for medical care purposes or to request flexible working arrangements for caring purposes, shall be entitled to bring an unfair dismissal complaint to the Workplace Relations Commission.

**Links:** [General Scheme of a Work Life Balance and Miscellaneous Provisions Bill 2022](#); [Keeping up with EU Directives briefing](#); [Report on pre-legislative scrutiny of the General Scheme of a Work Life Balance and Miscellaneous Provisions Bill 2022 - Meitheamh 2022 \(oireachtas.ie\)](#)

# Ireland



## Further pay transparency proposal

The Employment Equality (Pay Transparency) Bill 2022 (the "Bill"). The Bill aims to ensure pay transparency for roles advertised by business and public sector organizations.

**Impact date:** The Bill is a private members' bill put forward by members of Sinn Fein. However, we expect a government sponsored bill in the future to implement the European Commission's proposal for a Directive on pay transparency once a transposition date has been set.

**Employer implications/action needed:** Employers must ensure that they do not publish or display an advertisement which discriminates or signals an intention to discriminate. Moreover, if this Bill is passed, employers will have an obligation to publish an approximate remuneration owed to a worker for taking up a contract of employment. As such, employers should move to display the approximate remuneration on their job descriptions and advertisements.

**Employer risk:** Employers should monitor the status of the Bill.

**Links:** [Employment Equality \(Pay Transparency Bill\) 2022](#); [Wage transparency briefing](#)

# Italy



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### COVID-19 - Mandatory vaccination

The requirement for employees to be vaccinated remains in place for those working in the healthcare sector.

**Impact date:** Until 31 December 2022.

**Employer implications/action needed:** Employers need to keep apprised of developments to ensure they comply with the latest legal requirements and guidance.

**Employer risk:** N/A

**Link:** [https://www.gazzettaufficiale.it/atto/vediMenuHTML?atto.dataPubblicazioneGazzetta=2022-01-07&atto.codiceRedazionale=22G00002&tipoSerie=serie\\_generale&tipoVigenza=originario](https://www.gazzettaufficiale.it/atto/vediMenuHTML?atto.dataPubblicazioneGazzetta=2022-01-07&atto.codiceRedazionale=22G00002&tipoSerie=serie_generale&tipoVigenza=originario)

### Work from home (so-called "smart-working")

The possibility of employers implementing working from home by using the simplified procedure (i.e. without specific written agreement with the concerned employee) has been extended to 31 August 2022.

**Impact date:** From 25 March 2022 until 31 August 2022.

**Employer implications/action needed:** Employers should note the extended possibility of utilising the simplified procedure for smart working.

**Link:** [Gazzetta Ufficiale](#)

### EU Directive on work-life balance for parents and carers

Draft regulations have been issued to implement EU Directive no. 2019/1158 on work-life balance for parents and carers. The aim of the Directive is to improve gender equality in the workplace and within the families. The main changes include:

- mandatory parental leave of 10 working days that can be used by the father within 2 months before and 5 months following the birth
- the right to a period of 11 months' parental leave (previously 10 months)
- an additional period of paid parental leave of 3 months which can be used by either parent, payable at 30% salary
- an increase in child age for eligibility for parental leave to 12 years (previously up to 6 years of age)
- giving employees with children up to 12 years of age; employees children with a disability of any age and carers a right to request working from home.

**Impact date:** Implementation in Italy is overdue and a date awaited (was due on 2 August 2022).

**Employer implications/action needed:** Once in force, employers will need to familiarise themselves with the changes and incorporate them into policies and practices.

**Employer risk:** A failure to accommodate the various leave and pay entitlements could lead to allegations of discrimination and to reputational damage.

**Link:** <https://www.senato.it/leg/18/BGT/Schede/docnonleg/44481.htm>

# Italy

## EU Directive on transparent and predictable working conditions

Regulations implementing EU Directive no. 2019/1152 on transparent and predictable working conditions will require employers to provide far more detailed information to workers regarding their terms and conditions of employment. Once in force, the new provisions, which are applicable to all employment relationships, including coordinated and continuous collaborations (so-called "Collaborazioni coordinate e continuative"), will require employers to include in the employment agreement - or in any case to communicate to the employee within 7 days from the beginning of the working activity - the following information:

- the identity of the parties
- the workplace and the employer's registered office
- the ranking of the employee
- the starting date and the type of employment relationship
- the duration of the probationary period
- the amount of the salary as of the starting date, the period and the methods of payment
- the working time and any conditions relating to overtime and its payment, as well as any conditions for shift changes.

The employer must also include in the employment agreement - or in any case communicate to the employee within one month from the beginning of the working activity - the following additional information:

- the right to training, if any
- length of holiday leave, and others paid leave
- the procedure, the form and the terms of the notice in case of termination or resignation
- the national collective bargaining agreement applied by the employer, with the name of the Unions who have signed the relevant NCBA
- authorities that receive the payment of social security contributions, and any other treatments granted by the employer regarding the payment of social security contributions.

For existing employment agreements in place on 1 August 2022, the above-mentioned information need only be provided by the employer on written request from the employee within 60 days after the relevant request.

**Impact date:** 13 August 2022

**Employer implications/action needed:** Employers should review template employment agreements for any new hires to ensure compliance with the new requirements. For employment agreements already in place, employers will need to prepare to respond to requests from workers for the added information but may choose to add specific addendums to the employment contracts. NB the new Decree also imposes specific information obligations upon employers regarding the use of systems that monitor an employee's working activity. This may require that the organization's privacy policy is updated.

**Employer risk:** In case of non-compliance with the abovementioned obligations, different type of administrative fines will be applied depending on the nature and seriousness of default.



# Latvia



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### Implementation of EU Directives on predictable working conditions and work-life balance

Amendments to the Labor Law for implementation of the EU Directives on predictable working conditions and work-life balance have been adopted. The amendments include:

- extension of maximum probationary period by collective labor agreements
- regulation if a working schedule is not fully (or mostly) predictable
- right of the several categories of employees to require an employer to make adjustments to working time
- information that must be provided to an employee in the case of official travel and work travel
- right to unpaid carers' leave
- right of specific carers' leave of 10 working days after the birth of a child.

**Impact date:** 1 August 2022

**Employer implications/action needed:** Relevant employment documents and internal processes shall be updated as necessary.

**Link:** [Keeping up with EU Directives briefing](#)

### Parental benefit

Amendments to the Law "On Maternity and Sickness Insurance" have been adopted in order to implement the EU Directive 2019/1158 on work-life balance for parents and carers. The relevant changes also provide for the paternity leave requirements as well as the payment for paternity allowance for 10 working days (currently – for 10 calendar days).

**Impact date:** 1 August 2022

**Employer implications/action needed:** No immediate actions required.

**Employer risk:** N/A

**Link:** [Amendments to the Law "On Maternity and Sickness Insurance"](#)

# Lithuania



## Contact



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### Changes relating to reduced per diem rates

Employers and employees are no longer able to lawfully agree reduced per diem rates (i.e. daily allowances) so that reduced per diem rates (by up to 50 per cent of the maximum per diem rates approved by the Lithuanian Government) may only be concluded via collective agreement or, where there is none, in a local regulatory legal act.

**Impact date:** 1 July 2022

**Employer implications/action needed:** The change means that individual agreements regarding reduced per diem rates are invalid as of 1 July 2022. To introduce reduced per diem rates going forwards, information and consultation procedures must be completed in accordance with the procedure established by the Labor Code of the Republic of Lithuania. If per diem rates are set by a local regulatory legal act, employees must confirm acceptance (by signature).

**Employer risk:** From 1 July 2022, continued payment of reduced per diem, as agreed in individual employment contracts, risks labor disputes. In addition, non-compliance may lead to an administrative penalty of between 300 EUR and 1450 EUR according to the Code of Administrative Offences. A repeated breach carries a penalty between 1400 EUR and 3000 EUR. A deliberate breach carries a penalty between 2700 EUR and 6000 EUR.

**Link:** <https://www.e-tar.lt/portal/lt/legalAct/0f9e7c10b03611ec8d9390588bf2de65>

### Exceptional cases for payment of salary in cash

As a general rule (excepting sailors), salaries and other payments must be paid by bank transfer to an account specified by the employee. The Labor Code has been amended to provide an exception for payments of salary in cash to asylum seekers and foreigners who have a right (permit) to work in Lithuania.

**Impact date:** 12 July 2022

**Employer implications/action needed:** In relevant cases, employers will need to prepare to pay salary in cash to asylum seekers and foreigners.

**Employer risk:** The employer's refusal to pay salary in cash, where an asylum seeker/foreigner with a work permit objectively cannot have a payment account, risks labor disputes. In addition, non-compliance may lead to an administrative penalty in the amount of 150 EUR to 1400 EUR according to the Code of Administrative Offences. A repeated breach carries a penalty between 1400 EUR and 3000 EUR. A deliberate breach carries a penalty between 2700 EUR and 6000 EUR.

**Link:** <https://www.e-tar.lt/portal/lt/legalAct/f253c38000e511ed8fa7d02a65c371ad>

# Lithuania

## Additional leave for employees raising children

The Labor Code has been amended to extend current entitlements and provide for additional paid leave for employees with one child, with 3 or more children, with 2 children of whom at least one is disabled. The duration of leave depends on the number of the children, the child's age and health status. An employee with one child under 12 (who is not disabled) may take one additional day of paid leave per 3 months or have their working time shortened by 8 hours within a period of every 3 months. An employee with 3 or more children under 12 (who are not disabled) may take 2 additional paid days of leave per month or have their weekly working time shortened by 4 hours. An employee raising 2 children under 12, if at least one of the children is disabled, may take 2 additional paid leave days per month. Alternatively, such employee's working hours may be shortened by 4 hours per week.

**Impact date:** 1 August 2022

**Employer implications/action needed:** Employers will need to plan to accommodate employees' entitlement to additional leave.

**Employer risk:** The employer's refusal to grant additional paid leave risks labor disputes. In addition, non-compliance may lead to an administrative penalty in the amount of 300 EUR to 1450 EUR according to the Code of Administrative Offences. A repeated breach carries a penalty between 1400 EUR and 3000 EUR. A deliberate breach carries a penalty between 2700 EUR and 6000 EUR.

**Link:** <https://www.e-tar.lt/portal/lt/legalAct/f253c38000e511ed8fa7d02a65c371ad>

## Violence and harassment prevention policy

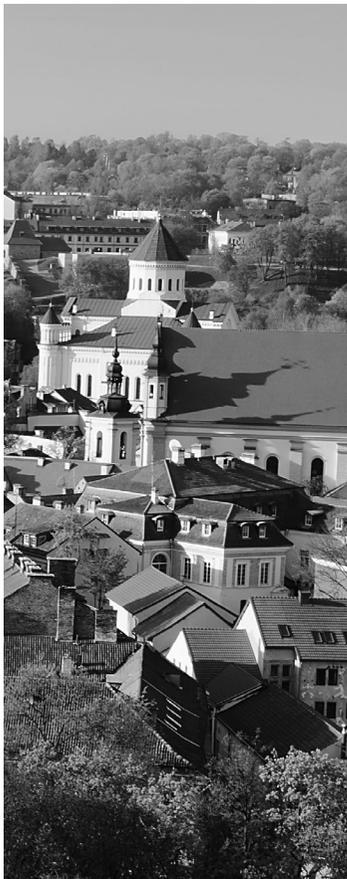
An employer with an average number of employees of more than 50 must approve the violence and harassment prevention policy, publish and implement it in the usual ways in the workplace.

**Impact date:** 1 November 2022

**Employer implications/action needed:** To introduce the violence and harassment prevention policy, information and consultation procedures must be completed in accordance with the procedure established by the Labor Code of the Republic of Lithuania. After the policy has been approved, employees must be familiarized with it against signature.

**Employer risk:** Non-compliance may lead to an administrative penalty in the amount of 300 EUR to 1450 EUR according to the Code of Administrative Offences. A repeated breach carries a penalty between 1400 EUR and 3000 EUR. A deliberate breach carries a penalty between 2700 EUR and 6000 EUR.

**Link:** <https://www.e-tar.lt/portal/lt/legalAct/f253c38000e511ed8fa7d02a65c371ad>



# Lithuania

## Reduced working time standard for some employees in the public sector

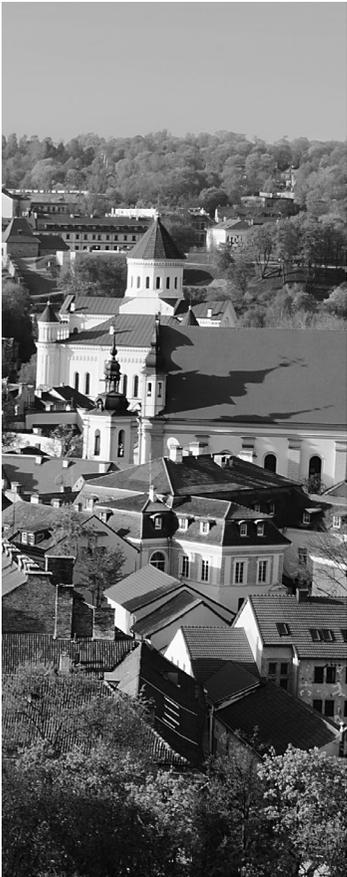
A shorter working week is to be introduced next year for employees of various state and municipal institutions or establishments who are parents of very young children. Instead of a 40 hour working week, a reduced working week of 32 hours (i.e. a reduction of one day per week) will apply to these workers who are raising children younger than 3 years. Eligible employees will be paid their normal salary (i.e. will not lose a day's pay despite the reduction in hours). Only one parent may benefit from this change.

**Impact date:** 1 January 2023

**Employer implications/action needed:** Employers will need to plan for employees working reduced hours and accommodate their entitlement to do so.

**Employer risk:** From 1 January 2023, a public-sector employer's refusal to allow parental time off of one day per week risks labor disputes. In addition, non-compliance may lead to an administrative penalty of between 300 EUR and 1450 EUR according to the Code of Administrative Offences. A repeated breach carries a penalty between 1400 EUR and 3000 EUR. A deliberate breach carries a penalty between 2700 EUR and 6000 EUR.

**Link:** <https://www.e-tar.lt/portal/lt/legalAct/d0b16f30c6f11ec8d9390588bf2de65>



# Mauritius



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### Social Contribution and Social Benefits (Industrial Injuries) Regulations 2022

Regulations aimed at providing an industrial injury benefit in the event of industrial injury during the course of employment have been made under section 39 of the Social Contribution and Social Benefits Act 2021 and apply with retrospective effect.

#### Impact date:

Access to benefit is as follows:

- backdated to 1 September 2020, in relation to all workers (other than self-employed workers)
- backdated to 1 September 2021, in relation to self-employed workers

#### Employer implications/action needed: Every employer must:

- Keep a register of each industrial accident, recording information including the nature of injury; the date and time of the accident; the cause; the circumstances; the names of witnesses; the likely duration of any incapacity and remuneration paid (see the Second Schedule of the Regulations for full details)
- Keep the above-mentioned register for not less than three years from the date of the last entry
- Within three weeks an employee suffering an industrial injury, provide full details to an officer of the Ministry of Social Integration, Social Security and National Solidarity
- At the request of the National Pensions Officer, provide such information and produce such documents as may be necessary to determine whether a benefit is payable and
- Ensure that such medical treatment as may be required is made available to an employee who suffers an industrial injury.

**Employer risk:** Non-compliance with these changes Regulation amounts to an offence and exposes an employer, on conviction, to a fine not exceeding Rs 50,000/- and to imprisonment for a term not exceeding 12 months.

# Mauritius



## Quarantine (COVID-19 Restrictions) Regulations 2022

Regulations have been made in relation to the protocol to follow in relation to COVID-19 and there is a part which deals with the "leaves/holidays" in relation to employees.

**Impact date:** 1 July 2022

### Employer implications/action needed:

- if an employee does not have access to their place of work at a "specified institution" because of Covid protection 'access requirements', the employee may agree to take paid leave during such period, to be deducted from their annual entitlement to sick leave, annual leave or a combination of such leave, as the case may be
- where the employee does not consent to their absence in the above circumstances being deducted from their leave entitlement, or they have exhausted all leave entitlement, the absence shall be unpaid
- "specified institutions" include any educational/training institution; health institution; residential care home; reform institution; airport; harbour; police premises; fire rescue premises; dormitories; cinema halls; restaurants; pubs; bars; private clubs; hotels; sports centers/complex; casino/gaming houses; multi-purpose halls; tourist residences; civil status office; Registrar General Department; Registrar of Companies; post office; social security office and Mauritius Revenue Authority office.

**Employer risk:** Non-compliance with these Regulations amounts to an offence and a person shall, on conviction, be liable to a fine not exceeding MUR 500,000/- and to imprisonment for a term not exceeding five years.

## Workers' Rights (Prescribed Period) (Amendment) Regulations 2022

This amendment relates to the prescribed period during which an employer may not terminate the employment of an employee if the employer has received financial assistance from the government.

**Impact date:** 4 July 2022

**Employer implications/action needed:** An employer shall not, during the period between 1 June 2020 and 31 December 2022, reduce the number of workers in their employment either temporarily or permanently or terminate the employment of any of their workers.

**Employer risk:** Any person who commits a breach, shall, on conviction, be liable to a fine not exceeding Rs25,000 and to imprisonment for a term not exceeding 2 years.

# Mauritius



## Payment of special allowance to eligible employees

Regulations introduced at the start of the year continue to provide for the payment of a special allowance to eligible employees by the Director General of the Mauritius Revenue Authority ("MRA") until the end of the year.

**Impact date:** Until 31 December 2022.

**Employer implications/action needed:** The MRA may pay special allowance to a full time employee as follows:

- to an employee of a non-export enterprise, a maximum of Rs 500 to top up their monthly guaranteed income to Rs 11,075
- to a Mauritian employee of an export enterprise, a maximum of Rs 1200 and an additional amount of Rs 140, being part of salary compensation for the year 2022 to top up their monthly guaranteed income to Rs 11,075
- to a migrant worker of an export enterprise who was in employment as at 31 December 2019, a maximum of Rs 860 bringing their monthly guaranteed income to Rs 10,735
- to a Mauritian employed on a full-time basis in an export enterprise, Rs 140, being part payment of salary compensation 2022 and drawing a monthly basic wage or salary exceeding Rs 11,075 but not exceeding Rs 50,635 monthly.

Where an employee has more than one full-time job, they may only receive a special allowance for the job from which they derive the highest basic salary.

**Employer risk:** Failure to pay remuneration to a worker is an offence punishable by fine and/or a protective order may be entered against the employer.

**Link:** [Payment of Special Allowance 2022 Regulations](#)

# Mozambique



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### Decree no. 14/2022 – Declares a Public Health Emergency

The situation of Public Calamity due to COVID-19 has been replaced with a Public Health Emergency declared by the Mozambican government.

A Public Health Emergency is deemed a state of exceptional management of the Health System, as well as of the society, public and private institutions, and citizens' lives, in order to eliminate or substantially reduce the risks for the Public Health.

This regulation establishes the measures to contain the spread of the pandemic COVID-19, in the context of the Public Health Emergency, such as the mandatory wearing of masks in enclosed spaces and on passenger transport facilities.

**Impact date:** 20 April 2022

**Employer implications/action needed:** Employers should be aware of the mandated preventive measures against COVID-19 and ensure compliance.

**Employer risk:** Failure to comply with such preventive measures may imply coercive measures applied by the state, as well as other general liabilities and sanctions.

**Link:** <https://www.lexlink.eu/FileGet.aspx?FileId=3031540>

# Netherlands



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### Temporary workers (case law)

As a general rule, a temporary employment agency may not do anything that prevents a temporary worker from working for the hirer after the end of the assignment.

The Supreme Court has recently determined that this rule does not apply automatically to self-employed persons and further analysis of the individual's status may be necessary, including whether they meet the requirements of the Temporary Agency Work Directive. An important consideration in this respect will be whether the worker performs work under the management and supervision of the hiring company and receives compensation from the hiring company.

Separately, a lower Court has ruled that the rule does not extend to preventing the temporary worker from setting up a competing business and subsequently performing work via that business for the hiring company.

**Impact date:** 20 April 2022 and 20 May 2022.

**Employer implications/action needed:** These case law developments will be most relevant for temporary employment agencies and employers that use temporary workers. Such employers should note that the prohibition of impediments may apply in some circumstances to self-employed persons.

**Links:** [Judgement: ECLI:NL:HR:2022:751](#); [Judgement: ECLI:NL:RBROT:2022:3226](#)

### Status (case law)

The Court of Appeal has found that a contractor was in fact working under a contract of employment with a bank. Overturning the decision of the lower court, the Court of Appeal held that significant indicators of an employment relationship in the case were elements of the contract, such as entitlement to holiday and holiday allowance and the Bank's ability to withhold premiums and to carry out performance reviews which, when applied in practice, were incompatible with contractor status.

**Impact date:** 30 May 2022

**Employer implications/action needed:** In the absence of clear legislation governing when an employment contract or a contractor agreement exists, employers should ensure that they are vigilant to the possibility of status claims and ensure that the wording of their contracts and the way in which they are applied in practice (including the level of supervision and control exercised over the individual) supports the chosen arrangement.

**Employer risk:** Misclassification of employment status leads to risks of additional social security and tax liabilities but can also give rise to employment rights including in relation to the termination of the contract and the right to a statutory severance payment.

**Link:** [ECLI:NL:GHARL:2022:4294](#) (only in Dutch)

# Netherlands



## Termination of contract due to objection of conscience (case law)

In a first published decision on an objection of conscience, a Court has held a decision to terminate the employment of an employee relating to a clothing regulation to be fair in the circumstances. New regulations at a hospital stated that an employee's forearms must be left uncovered as a preventative measure against the transfer of viruses. For religious reasons, the employee refused. An expert advised that there was no adjustment that could be safely made to allow the employee's forearms to be covered. An alternative role was instead offered to the employee, which was rejected. The Court agreed to the employer's petition to terminate the employment contract.

**Impact date:** 31 May 2022

**Employer implications/action needed:** The judgement highlights the importance of exploring adjustments and alternatives in such circumstances, including redeployment.

**Link:** [ECLI:NL:RBMNE:2022:2027](#) (only in Dutch)

## Compensation scheme for statutory severance payment after 2 years of illness (case law)

The Central Appeals Tribunal for public service and social security matters ("CRvB") recently issued three decisions in which it ruled that the Employee Insurance Agency ("UWV") wrongly applied the compensation scheme for statutory severance in situations where the two years of illness expired before 1 July 2015 and the employment agreement was terminated on or after 1 July 2015.

Over-turning the decision of the UWV, which had ruled that employers were not entitled to compensation of the statutory severance payment, the CRvB determined that stance to be incorrect and ordered the UWV to revise its refusals to grant compensation in such cases.

**Impact date:** 1 June and 20 June 2022.

**Links:** [ECLI:NL:CRVB:2022:1180](#), [ECLI:NL:CRVB:2022:1316](#) and [ECLI:NL:CRVB:2022:1317](#) (only in Dutch)

## Non-competition clauses (case law)

In considering whether to enforce a non-competition clause, the court will balance the interests of the employer and the employee. The Supreme Court has ruled that the interest of the employer in retaining an employee for a period to enable it to find a replacement, taking into account the current difficulties on the labor market with recruiting new employees, is not a relevant factor that can be considered in applying the balance of interests.

**Impact date:** 21 June 2022

**Employer implications/action needed:** Employers should note that the current difficulties in the labor market are unlikely to give a valid basis for seeking the annulment of a previously agreed non-competition clause.

**Link:** [ECLI:NL:HR:2022:894](#) (only in Dutch – Supreme Court)

# Netherlands



## Implementation EU Whistleblowing Directive (“WBD”)

Legislation expected last year to implement the WBD is anticipated shortly. Once in force it will provide:

- protection for all persons in a work-related relationship
- a requirement for employers to have internal whistleblowers procedures
- additional requirements for internal and external reporting channels and procedures, including timeframes
- more robust confidentiality requirements
- there will be no requirement to first report a suspicion of a wrongdoing internally before reporting it externally
- a reversal of the burden of proof for demonstrating detriment as a result of the disclosure.

**Impact date:** Expected in the second half of 2022.

**Employer implications/action needed:** Once the legislative proposal is adopted, employers should (i) amend their whistleblower procedure and related practices, taking into account the new legislation and (ii) appoint an independent officer to whom the (suspicions of) wrongdoing or infringements of EU law can be reported.

**Employer risk:** Employers that breach the obligation to keep the identity of employees who raise a concern confidential, risk criminal prosecution and fines of up to € 21,750. In addition, if an employer deliberately provides false information about an employee and publishes the information, it also risks criminal prosecution and fines of up to €21,750.

**Links:** [Briefing: The EU acts to accelerate implementation of the Whistleblowing Directive across Member States](#); [Keeping up with EU Directives briefing](#)

## Minimum wage

The minimum wage for employees aged 21 or over has been increased from €1,725.00 to €1,756.20 gross per month (based on full time employment), excluding the 8% statutory holiday allowance. The maximum daily wage has been increased from €228.76 to €232.90 gross.

In addition, the Dutch Government announced its intention to start increasing the minimum wage by a total of 7.5%, to be implemented in three steps from 2023 to 2025. However, no final decision has been made on this subject.

**Impact date:** 1 July 2022

**Employer implications/action needed:** Employers must (i) ensure that their employees receive at least the statutory minimum wage and (ii) check whether salary levels required for certain exceptions (e.g. including holiday allowance in salary if salary equals 3x minimum wage) are still being met.

**Employer risk:** Failing to pay the statutory minimum wage may result in wage claims (including the statutory increase of 50%) from employees and fines from the Netherlands Labor Authority between €500 and €10,000 per employee. Additionally, this may have a negative effect on an employer’s public image.

**Link:** <https://www.uvw.nl/particulieren/bedragen/detail/maximumdagloon> (only in Dutch)

# Netherlands



## EU Transparent and Predictable Working Conditions Directive

Legislation implementing the Transparent and Predictable Working Conditions Directive came into force on 1 August 2022.

The most relevant changes include (but are not limited to):

- employers will no longer be permitted to recover costs for compulsory education or training from employees and any time spent on such education or training is considered working time
- any contractual clause which purports to prohibit or restrict employees from performing work for other companies outside their working hours will be null and void, unless there is objective justification
- employers will be obliged to provide information to employees (in writing) about an extended list of key terms and conditions of employment
- prior to any posting of employees from the Netherlands to another EU-country, employers must provide information on the wages, allowances and any arrangements for reimbursements of travel, accommodation and/or meals
- after 26 weeks of employment, employees will be entitled to make a request (in writing) for their employer to provide more predictable and secure working conditions, insofar as these already apply to other employees within the company. Failure to respond in a timely manner will result in the request having been considered granted by the employer.

**Impact date:** 1 August 2022

**Employer implications/action needed:** Employers should update their template employment agreements and other relevant documents. In addition, employers shall be aware of the actions to be taken, such as reviewing which education is 'compulsory', when and how to respond to request for more predictable and secure working conditions or a request to perform side activities, etc.

**Employer risk:** Failure to comply with these new requirements may lead to challenge and/or claims from employees, depending on the specific rule that has been breached. Further, the new legislation provides protection against detriment or dismissal for employees invoking their rights.

**Link:** [Keeping up with EU Directives briefing](#)

## Parental leave rights

The Paid Parental Leave Act ("the Act") has increased parental benefit payments during parental leave to at least 70% of statutory maximum salary (instead of the previous 50%), administered by the Employee Insurance Agency. Employees are entitled to this benefit for a period of up to 9 times their weekly working hours, which must be taken before the child reaches the age of 1.

**Impact date:** 2 August 2022

**Employer implications/action needed:** Employers should apply the amended benefit percentage. In addition, employers should review and/or amend internal policies for parental leave in accordance with the new legislation. HR departments should note that requests for parental leave benefit may need to be submitted to the Employee Insurance Agency by employers, after at least one week of leave has been taken.

**Employer risk:** Failure by employers to grant parental leave and/or request paid parental leave benefits on behalf of and at the request of employees risks legal claims from employees as well as reputational damage.

**Link:** <https://business.gov.nl/amendment/paid-parental-leave/>

# Netherlands



## Travel allowance

The maximum tax-free travel allowance which can be provided by employers will be increased from €0.19 to €0.23 per kilometre. An employer may offer a lower travel allowance than €0.23. An employer may also offer a higher travel allowance, but the amount which exceeds the maximum of €0.23 per kilometre will be taxed. Employers will continue to be able to reimburse actual costs of travelling by public transport on a tax-free basis.

**Impact date:** 1 January 2023

**Employer implications/action needed:** Employers should review whether their (template) employment agreements contain a reference to the statutory maximum tax-free allowance. If so or if the applicable Collective Labor Agreement states so, the maximum tax-free travel allowance shall be increased to €0.23 per kilometre.

**Employer risk:** Failing to offer the higher travel allowance, if required to do so, could result in salary claims from employees.

**Link:** <https://www.rijksoverheid.nl/documenten/kamerstukken/2022/05/20/voorjaarsnota-2022> (only in Dutch)

## Dutch Pension Act ( "Wet Toekomst Pensioenen" )

The Future Pensions Act (in Dutch: Wet Toekomst Pensioenen, "Wtp") will amend current pension provision over several years, impacting current employer agreements and pension schemes. In particular, the Wtp will ban defined benefit agreements, making defined contribution agreements the standard.

**Impact date:** Between 1 January 2023 - 1 January 2027.

**Employer implications/action needed:** Employers should review their pension schemes and bring them in line with future pension legislation, allowing time for due consideration of potential complexities and the discharge of consultation obligations, if any.

**Employer risk:** The applicable pension scheme may be rendered unlawful. Pension administrators may terminate administration agreements if the deadline of 1 January 2027 is not met but, furthermore, if the pension scheme does not comply with tax law from 1 January 2027, a penalty clause will come into effect.

**Link:** [Looking ahead, Revision of the Dutch pension system by the 'Dutch Future of Pensions Act' \(Wet toekomst pensioenen\) \(eversheds-sutherland.com\)](https://www.eversheds-sutherland.com/en/insights/publications/2022/05/looking-ahead-revision-of-the-dutch-pension-system-by-the-dutch-future-of-pensions-act-wet-toekomst-pensioenen)

# Netherlands



## Proposed legislation on hybrid working

The Dutch House of Representatives has adopted a revised version of the so-called 'Work where you want'-Act on hybrid working. The most recent version of the legislative proposal would revise the Flexible Working Act, which currently provides a right for employees to request a change in place of work as a flexible working arrangement but places no obligation on the employer to agree. The proposal would result in an obligation for the employer to consider a request to work from the employee's home address, insofar as this is located within the territory of the European Union, or from another office/premises of the employing entity on the basis of reasonableness and fairness, as determined by the specific circumstances. It is still unclear if and when this legislation will come into force, as the legislative proposal must first be adopted by the Senate.

**Impact date:** Unknown at this time.

**Employer implications/action needed:** Should the revised legislation be implemented, employers will need to ensure that their reasons for refusing a request from an employee are in accordance with the new legislation. Should employers consider implementing a form of hybrid working within their organization, then it is advised to do so on the basis of a hybrid working policy (which may require works council consent, if applicable).

**Employer risk:** As currently applies, employers shall ensure that they respond within one month of receiving the request in order to prevent that the request is deemed granted by the employer, meaning that the employee can claim this as a right.

**Link:** [https://www.eerstekamer.nl/behandeling/20220705/gewijzigd\\_voorstel\\_van\\_wet\\_3/document3/f=/vlugg8654mww\\_opgemaakt.pdf](https://www.eerstekamer.nl/behandeling/20220705/gewijzigd_voorstel_van_wet_3/document3/f=/vlugg8654mww_opgemaakt.pdf) (only in Dutch)

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### Transparent and predictable working conditions and work-life balance for parents and carers

The government has presented draft legislation which would amend the Labor Code to implement the EU Transparent and predictable working conditions Directive and Work-life balance for parents and carers Directive.

The draft provisions include:

- an extension of the scope of information provided on the conditions of employment, including information on training provided by the employer and the paid leave to which an employee is entitled
- an obligation to state the reason for the termination of fixed-term employment contracts
- additional conditions for concluding employment contracts for a trial period
- for employees working for at least 6 months, the right to apply for more predictable work or safer working conditions and to receive a written reply to this application, stating the reasons, within one month of receipt
- the right to free training necessary for the performance of a specific job
- extension of parental leave
- additional unpaid carer's leave
- extended use of flexible work.

**Impact date:** Expected by Summer 2022.

**Employer implications/action needed:** Employers should monitor the progress of the draft legislation as contractual and policy changes will be needed once the provisions are implemented.

**Links:** [Projekt \(legislacja.gov.pl\)](#); [Keeping up with EU Directives briefing](#)

### Whistleblowing

The government has published a draft Bill which aims to implement the EU Whistleblowing Directive. The Bill sets out obligations for employers to establish internal procedures for reporting breaches as well as providing protection to reporting persons against retaliation.

**Impact date:** Expected by Autumn 2022.

**Employer implications/action needed:** The Bill may change further during the legislative process but employers should assess their current reporting processes, based on the draft, to understand potential shortcomings and remedial action that may be needed pending final legislation.

**Employer risk:** At this stage pending the final version of the legislation, the risks associated with any breach of the new law are uncertain. However, based on the draft Bill, it is currently expected that criminal sanctions will apply in the event of any failure to establish internal reporting channels.

**Links:** <https://legislacja.gov.pl/projekt/12352401>; [Briefing: The EU acts to accelerate implementation of the Whistleblowing Directive across Member States](#)

# Poland

## Adoption of the provisions on the remote work into the Labor Code

The government has adopted a new version of the Labor Code Bill which would introduce permanently the provisions on remote working. These provisions aim to replace the telework provisions.

According to the current version of the Bill, permanent or hybrid remote working will be possible by agreement between the employer and employee (in some limited cases, employers will be allowed to unilaterally require employees to work remotely). The Bill also provides for exceptions when the employer will be obliged to accept an employee's request for remote work (e.g. in case of pregnancy or childcare). The costs relating to remote work must be borne by the employer.

This is not the final version of the Bill and it is likely to undergo further amendments.

**Impact date:** Expected by Autumn 2022.

**Employer implications/action needed:** Once in force, employers will be required to conclude agreements with any employees who perform work remotely, provide the necessary working tools (or an equivalent) as well as develop appropriate procedures for remote work and reimbursement of the related costs.

**Employer risk:** N/A

**Link:** [Projekt 12354104](#)

## Sobriety checks by employers

The latest version of the Labor Code Bill introduces provisions to allow employers to check employees and civil law contractors for the presence of alcohol or intoxicating substances. Such checks must be conducted in a non-invasive manner and will be possible only for the purpose of ensuring the protection of the life and health of employees and other persons or the protection of property. The specific circumstances in which such checks will be allowed has not yet been confirmed.

This is not the final version of the Bill and it is likely to undergo further amendments.

**Impact date:** Expected by Autumn 2022.

**Employer implications/action needed:** If the law is passed and employers wish to consider using sobriety checks, employers should first establish whether conducting checks is required to ensure the protection of the life and health of employees and other persons or the protection of property. If it is, the adoption of relevant procedures and policies is recommended.

**Employer risk:** N/A

**Link:** [Projekt 12354104](#)



# Poland

## Collective labor disputes

The government has published objectives of a new draft Bill on collective labor disputes. The act currently in force has remained unchanged for over 30 years. The planned regulations aim to limit the rights of the trade unions.

The objectives address the issues such as:

- extension of the scope of the dispute to all matters relating to gainful employment
- the introduction of joint union representation and the obligation to form a coalition in the event of a dispute
- introduction of a limitation of the duration of an collective dispute to 9 months with the possibility of a 3-month extension
- the possibility of initiating mediation before the start of negotiations
- introducing judicial review of the legality of the strike referendum.

**Impact date:** The bill is planned to be introduced by the end of 2022.

**Employer implications/action needed:** Employers should monitor the progress of the draft legislation.

**Employer risk:** N/A

**Link:** <https://www.gov.pl/web/premier/projekt-ustawy-o-sporach-zbiorowych-pracy-oraz-o-zmianie-ustawy-o-radzie-dialogu-spolecznego-i-innych-instytucjach-dialogu-spolecznego>



# Romania



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### Occupation classification

7 new occupations have been added to the Labor Code, which requires that each individual employment agreement must state the classification of occupation code for the job that the employee will perform, namely:

- creator/designer of clothing – COR code 311944
- government communication expert – COR code 243224
- e-government expert – COR code 242234
- inspector of tracking and management of goods – COR code 261924
- government communication manager – COR code 121311
- online marketing specialist – COR code 243105
- licensed radiology and imaging technician – COR code 226928

**Impact date:** 25 May 2022

**Employer implications/action needed:** Employers should use the appropriate classification code.

### Electronic General Registry of Employees

Employees and former employees will have online access to the electronic General Registry of Employees to access their employment data. The access right is limited to visualizing, downloading and printing such employment data, as well as generating and downloading online excerpts from the General Registry of Employees. The access procedure is currently under development.

**Impact date:** 26 May 2022

**Employer implications/action needed:** No action needed.

### Tax-exempted increase of the salary rights

For a temporary period until 31 December 2022 and subject to certain conditions being fulfilled, an income tax and compulsory social contributions exemption may be available for an amount of RON 200 (approx. €40).

**Impact date:** 1 June 2022

**Employer implications/action needed:** Employers should note the potential availability of the exemption.

# Romania

## Law 195/2022

A change in the retention period of tax and social contributions documentation will come into force as of 1 of January 2023. In consequence, payroll information upon which the employer relies for withholding tax and per income beneficiaries or for declaring its compliance with social contributions, income tax and recording of insured persons to the relevant fiscal authorities will need to be retained 5 years. This is a legal exception to the rule which provides that the accounting documents should be preserved for 50 years.

**Impact date:** 1 January 2023

**Employer implications/action needed:** N/A

**Employer risk:** Exposure to fine amounting between RON 300 – RON 4,000 (approx. €60 – €810).

## EU Directive on Whistleblowing

A draft law has been published to implement the Whistleblowing Directive into Romanian law.

Public authorities and institutions, as well legal private entities with at least 50 employees, will be required to identify or establish internal reporting channels for whistleblowing, set up internal reporting procedures and carry out appropriate follow-up actions. Private legal entities with 50 to 249 employees may use and/or share common resources for receiving reports.

The draft law includes the following requirements:

- internal reporting channels must be made available for employees (including job applicants, current or former employees), but also for independent contractors and employees of suppliers who, in the performance of their duties obtain information regarding breaches
- companies must keep records of any reports received for 5 years
- employees (except for those knowingly reporting false breaches) will be protected against retaliation
- the rights under the law cannot be waived.

All companies with 250 employees or more will be required to immediately comply once the law comes into force, although companies with 50 to 249 employees are granted a transition period to 17 December 2023.

**Impact date:** Implementation is awaited, pending Presidential approval.

**Employer implications/action needed:** Employers should monitor the progress of the draft law. Employers with an existing protected disclosures policy should examine their procedures to ensure compliance with the anticipated changes.

**Employer risk:** Non-compliance of the provisions of the law will risk civil, disciplinary, misdemeanour or criminal liability.

**Links:** [http://www.cdep.ro/pls/proiecte/upl\\_pck2015.proiect?cam=2&idp=19995](http://www.cdep.ro/pls/proiecte/upl_pck2015.proiect?cam=2&idp=19995); [Briefing: The EU acts to accelerate implementation of the Whistleblowing Directive across Member States](#)



# Romania



## Extended paternity leave proposal

A proposed increase in paternity leave of 10 working days (increased from 5 working days) for fathers of newborn children remains under review. If introduced, the changes would also mean that employees returning from paternity leave would have the right to receive no less favorable treatment; to return to work in an equivalent location under conditions that are no less favorable 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 decisional chamber of the Parliament (chamber of Chamber of Deputies) having a final vote on the proposed reform.

**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:** Once in force, non-compliance with the provisions may result in exposure to fines. In case of labor audits, it may be assessed that the employer did not comply with the legal provisions on granting paternity leave to the eligible employees in accordance with the legal provisions in force. The labor inspectors could request to the employer to remedy this irregularity within a certain time frame and if not remedied, apply a fine between RON 5,000 and 10,000 (approx. €1,011 – 2,021).

**Link:** [PL-x nr. 319/2021 \(cdep.ro\)](https://www.cdep.ro/pli/legis/PL-x.nr.319/2021/cdep.ro)

## New types of individual employment agreement

A draft law has proposed two new types of individual employment agreement, an:

- “at request” agreement: where, for specific types of work, the employee provides their services at the employer’s request, on the days and basis determined by the employer. The employee would need to be paid salary corresponding to at least 32 working hours per month. This type of individual employment agreement would only be available to those working in agriculture, hunting (and related areas); the organizing of exhibitions, fairs and congresses; publicity; and other leisure activities and
- individual employment agreement with several employers: which would only be available to employers within the same group of companies. The employee would be able to perform work for several employers, carrying out the same type of activity and duties.

**Impact date:** Awaited, pending procedure.

**Employer implications/action needed:** No action needed.

**Employer risk:** N/A

**Links:** <https://www.senat.ro/legis/lista.aspx#ListaDocumente>

[Alaris Capture Pro Software \(senat.ro\)](https://www.alaris.com/)

# Saudi Arabia



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### Saudization of marketing roles

A Ministerial Resolution has been issued, requiring at least 30% of marketing jobs in private sector establishments to be assigned to Saudi citizens in order to reduce unemployment rates and provide appropriate job opportunities according to skills, practical experience and educational qualifications.

**Impact date:** 8 May 2022

**Employer implications/action needed:** The Resolution applies to every establishment that has 5 or more workers in the marketing profession. Applicable employers should note the requirements of the Resolution and adjust its employment practices accordingly.

**Employer risk:** Failure to comply with the requirements of the Resolution risks penalties. In addition, companies may be prevented from renewing work licenses.

**Link:** - [Microsoft Word - رپوت كذا 11 قى وس ت ل ان هم ني طوت ل ي ئ ا ر ج ال ال ل ي ل د ل ا ة دوس م - 2021.docx \(hrsd.gov.sa\)](#)

### Saudization of administrative roles

A Ministerial Resolution has been issued, requiring 100% of administrative roles (translation, secretarial, stock keeper, data entry) in private sector establishments to be assigned to Saudi citizens in order to reduce unemployment rates and provide appropriate job opportunities according to skills, practical experience and educational qualifications.

**Impact date:** 8 May 2022

**Employer implications/action needed:** The decision applies to every economic entity in which translation, secretarial, stockkeeping and data entry professionals work. Applicable employers should note the requirements of the Resolution and adjust its employment practices accordingly.

**Employer risk:** Failure to comply with the requirements of the Resolution risks penalties. In addition, companies may be prevented from renewing work licenses.

**Link:** [Microsoft Word - \[16\] ة ن ا س م ل ا ق ي ر ا د ا ل ا ن ه م ل ا ن ي ط و ت ل ي ئ ا ر ج ال ال ل ي ل د ل ا - 16.docx \(hrsd.gov.sa\)](#)

# Saudi Arabia



## Ban on working in the sun

A Ministerial Resolution has been issued, banning working under the sun in all private sectors between the hours of 12 noon and 3pm, until 15 September 2022.

**Impact date:** 15 June 2022 to 15 September 2022.

**Employer implications/action needed:** The Resolution applies to every economic entity that requires workers to work outdoors in the sun during hours that include between 12 noon and 3pm.

**Employer risk:** Failure to comply with the requirements of the Resolution risks financial penalties.

**Link:** <https://www.hrsd.gov.sa/sites/default/files/3502021.pdf>

## Saudization of new professions and activities

A Ministerial Resolution has been issued, localizing 6 additional professions and activities. The applicable professions and activities are: license pilot profusion; customer service professions; visual professions; localizing outlets for certain activities; periodic inspection; and postal and parcel transportation services.

**Impact date:** Various between 12 December 2022 and 18 March 2023.

**Employer implications/action needed:** The Resolution applies to all economic entities in the applicable professions and activities. Applicable employers should note the requirements of the Resolution and adjust their employment practices accordingly.

**Employer risk:** Failure to comply with the requirements of the Resolution risks financial penalties. In addition, companies may be prevented from renewing work licences.

# Singapore



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### Minimum retirement and re-employment ages

The minimum statutory retirement and re-employment ages have increased. The minimum statutory retirement age has increased from 62 to 63 years and the re-employment age has increased from 67 to 68 years. The Singapore Government intends to progressively raise the minimum statutory retirement and re-employment ages to 65 and 70 respectively by 2030.

**Impact date:** 1 July 2022

**Employer implications/action needed:** Employers are required to offer re-employment to eligible employees from the statutory retirement age to the statutory re-employment age. Employers should therefore review their retirement and re-employment policies to take account of the increased ages.

**Link:** [Retirement and re-employment \(amendment\) Bill](#)

### Revised Entry Requirements for Construction, Marine Shipyard and Process Sector Work Permit Holders

The Ministry of Manpower will be phasing out the mandatory Pre Departure Preparatory Programme for Construction, Marine Shipyard and Process ("CMP") Work Permit Holders (WPHs) holding an In-Principle Approval ("IPA"). Instead, all non-Malaysian male WPHs from the CMP sectors holding an IPA will be required to undergo up to 4 days of onboarding at the Ministry of Manpower's Onboard Centres upon arrival in Singapore.

**Impact date:** 1 July 2022

**Employer implications/action needed:** Employers and employees should comply with the updated entry requirements. Employers whose WPHs are required to undergo the Onboard programme must ensure that they have booked a slot at the Onboard Centre through the Onboard Booking System before their arrival in Singapore.

**Employer risk:** WPHs may be denied entry into Singapore if entry requirements are not complied with.

**Link:** <https://www.mom.gov.sg/newsroom/press-releases/2022/0610-revised-entry-requirements-for-cmp-sectors-wphs>

### Minimum qualifying salary for Employment Pass/S-Pass applications

The minimum qualifying salary for new Employment Pass ("EP") applications will increase to S\$5,000 (currently S\$4,500) / S\$5,500 in the financial services sector (currently S\$5,000). The minimum qualifying salary for new S-Pass applications will go up to S\$3,000 (currently S\$2,500 / S\$3,500 in the financial services sector (currently S\$3,000).

The qualifying salary will continue to increase progressively with age. The minimum qualifying salary for EP applicants in their mid-40s increases to S\$10,500 (S\$11,500 for those in the financial services sector). The minimum qualifying salary for S-Pass applicants in their mid-40s increases up to S\$4,500 (S\$5,500 for those in the financial services sector).

**Impact date:** 1 September 2022 (new EP/S-Pass applications); 1 September 2023 (renewal EP/S-Pass applications).

**Employer implications/action needed:** Employers should use the Self-Assessment Tool ("SAT") on the Ministry of Manpower's website to assess if their candidates will meet the new qualifying salary.

**Link:** [Employment / S Pass Self-Assessment Tool \(SAT\)](#)

# Singapore

## Enhanced medical insurance coverage

The Ministry of Manpower (MOM) will enhance the mandatory medical insurance ("MI") for Work Permit and S-Pass holders. The MI enhanced coverage will include features such as co-payments for employers and insurers and age-differentiated premiums. Additionally, there will be a standardisation of allowable exclusion clauses and a requirement for insurers to reimburse hospitals directly. The aim of the reform is to give employers increased protection against large unexpected medical bills incurred by their migrant workforce.

**Impact date:** By the end of 2022.

**Employer implications/action needed:** Employers should engage their respective insurers early to ensure that they will be able to offer products that will meet the MOM's new requirements. Otherwise, employers may need to look for another insurer that will be able to do so.

**Employer risk:** Employers who fail to purchase or maintain the required MI will be in contravention of the conditions of a work pass under the Employment of Foreign Manpower (Work Passes) Regulations 2012 and risk fines of S\$10,000, or imprisonment for up to 1 year, or both.

**Link:** [Ministry of Manpower press release](#)

## Codification of fair employment guidelines

With the aim of further protecting workers against discrimination, the Singapore Government has proposed that the Tripartite Guidelines on Fair Employment Practices issued by the Tripartite Alliance for Fair and Progressive Employment Practices ("TAFEP") be enshrined into law. Additionally, a tribunal (similar to the Employment Claims Tribunal) will be created to deal with workplace discrimination. The proposed legislation is awaited.

**Impact date:** Awaiting.

**Employer implications/action needed:** Employers are likely to be expected to put in place procedures to deal with complaints or reports of discrimination, including steps to protect the confidentiality of complainants and to prevent retaliation. Employers should start preparing for the proposed legislation by reviewing their workplace discrimination practices and policies for compliance with the TAFEP guidelines.



# Slovakia



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### Employment of Ukrainian nationals

Ukrainian nationals may apply for temporary protection which, if granted, permits them to work in Slovakia under simplified conditions. The temporary protection for the period from 1 March 2022 to 4 March 2023 applies to citizens of Ukraine and their family members (spouse of a Ukrainian citizen/minor child of the Ukrainian citizen or spouse of the Ukrainian citizen/parent of the minor child who is a Ukrainian citizen/another close relative who is dependent on and has lived with the Ukrainian citizen) if the family was residing in Ukraine before 24 February 2022. Temporary protection also applies to foreigners who are not citizens of Ukraine (and their family members) who had international protection or equivalent national protection granted in the territory of Ukraine before 24 February 2022.

Where temporary protection is granted, the individual is issued with a document confirming the temporary protection in the territory of the Slovak Republic.

**Impact date:** 1 March 2022 – 4 March 2023.

**Employer implications/action needed:** No action is needed. However, employers should note the possibility of employing Ukrainian nationals under simplified conditions.

**Employer risk:** N/A

**Link:** <https://rokovania.gov.sk/RVL/Resolution/19969/1>

### Increase in the rates of meal allowance

The rates of meal allowances that apply for domestic business trips have increased. The increased rates are: €6 for a business trip with duration of 5 to 12 hours; €9 for a business trip with duration of 12 hours to 18 hours; and €13.70 for a business trip with duration over 18 hours.

The employer must contribute at least 55% of the price of the meal (i.e. at least €3,30), except business trips lasting 5 to 12 hours, where the contribution is up to 55% of the meal. Where the employer provides meal vouchers, the Labor Code establishes the minimum value of the meal voucher and a contribution of at least 75% of the meal (i.e. at least €4,50) during a business trip lasting 5 to 12 hours.

**Impact date:** 1 May 2022

**Employer implications/action needed:** Employers should review their meal allowance arrangements to ensure that the new rates are adhered to.

**Employer risk:** Employers that fail to comply with the meal allowance requirements risk fines of up to €100,000.

**Link:** [Legislation: 116/2022](#)

# Slovakia



## Accommodation allowance

Employers who provide accommodation which they own or manage to a foreigner who has been granted temporary protection (such as Ukrainian nationals) can apply to receive a state allowance. Such allowance can currently be claimed for accommodation provided until 30 September 2022. The amount of the allowance that can be claimed depends on the category of accommodation and age of the individual who has been provided with the accommodation.

**Impact date:** To 30 September 2022.

**Employer implications/action needed:** Employers who employ any persons who have been granted temporary protection and in respect of whom the employer provides accommodation should note the possibility of claiming an accommodation allowance.

**Employer risk:** N/A

**Links:** [The Asylum Act](#); [Government regulation on the provision of an allowance for the accommodation of persons who were granted temporary protection](#); [Act on Tourism Promotion](#); [Regulation of the Government of the Slovak Republic on a contribution for the provision of accommodation to persons who were granted temporary protection in connection with the situation in Ukraine](#)

## Electronic medical confirmation regarding incapacity for work

Doctors will be allowed to confirm the temporary incapacity of the employee in electronic form, replacing the currently used 5-part form. The National Centre for Health Information will ensure the transfer of data from the doctor to the information system of the Social Insurance Agency, which will be automatically sent to the employer.

To facilitate the transitional period, a dual system of temporary incapacity for work will be in place: a paper and electronic form of temporary incapacity certificate will apply at the same time until 31 March 2023.

**Impact date:**

- 1 June 2022 – 31 March 2023 – transition period (both electronic and paper form possible).
- 1 April 2023 – only electronic form.

**Link:** [Legislation: 125/2022](#)

# Slovakia



## Employer contribution to state-supported housing

Employers may provide a voluntary financial contribution of up to €4 per m<sup>2</sup> (up to a maximum of €360 per calendar month) to employees who are tenants of a state-assisted housing. The contribution amount is prorated for part-time employees and for employees who have entered into an employment relationship part-way through a calendar month.

If an employee is employed by more than one employer at the same time, the employee may apply for the financial contribution to only one employer per calendar month.

**Impact date:** 1 January 2023

**Employer implications/action needed:** No action is needed. However, employers should note the possibility of the provision of a contribution to a state-assisted housing for their employees.

**Employer risk:** N/A

**Link:** [Act no. 222/2022 on state supported housing](#)

## Agreement on work activity for the performance of seasonal work

An amendment to the Labor Code will provide an exception that allows for the performance of seasonal work, if the type of work is defined in Annex 1b of the Labor Code (for example, work in agriculture in the growing, harvesting, grading and storage of selected agricultural products, as well as work in the food industry in the processing of these agricultural products; selected work in tourism; and selected work in forestry). An agreement for the performance of seasonal work is subject to a maximum period of 8 months, during which employees may carry out work activities for a maximum of 520 hours per year. Multiple employment agreements for the performance of seasonal work with the same employer counted towards the maximum hours limit.

**Impact date:** 1 January 2023

**Employer implications/action needed:** No action is needed. However, employers should note the possibility of entering into arrangements for the performance of seasonal work.

**Employer risk:** N/A

**Link:** [Amendment of the Labor Code](#)

# South Africa



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### Case law - Retrenching employees who refuse vaccination

Two recent cases have considered the fairness of the retrenchment of employees who have refused to be vaccinated.

In the case of Cecilia Bessick // Baroque Medical (PTY) Ltd (WECT13083-21), the employer, a supplier of medical devices, undertook a risk assessment and implemented a mandatory vaccination policy. An employee refused to be vaccinated on the basis of "medical, personal and religious" grounds. The employer considered allowing the employee to work from home, but determined that this was not possible as the bulk of the employee's duties required the employee to be onsite. The employee was subsequently retrenched and the matter came before the Commission for Conciliation, Mediation and Arbitration (CCMA). The CCMA held that the termination of the employee's service was for operational reasons, as the non-compliance with the employer's mandatory vaccination policy meant that the employee was unable to continue to be employed by the company. The retrenchment was found to be fair in all aspects and the employee was not therefore entitled to severance pay.

In the case of Kgomotso Tshatshu // Baroque Medical (Pty) Ltd (GAJB20811-21), the employee refused to comply a mandatory vaccination policy and was subsequently retrenched with no severance pay. The CCMA found that the dismissal was unfair. Proving reasonableness of a mandatory vaccination rule ultimately rests with the employer and the employer in this case failed to lead or produce any evidence of a risk assessment having been conducted to identify which employees were required to be vaccinated after meeting certain criteria. The dismissal was found to be substantively unfair, and 12 months' compensation was awarded.

**Impact date:** 9 May 2022/22 June 2022

**Employer implications/action needed:** Employers must ensure that a fair procedure is followed in the dismissal of any employee who refuses to be vaccinated. The dismissal procedure that arises from an employee's refusal to be vaccinated does not differ procedurally from other dismissal procedures. Employer's must carefully consider the best avenue for dismissal (incapacity, operational requirements or misconduct) and ensure that the dismissal is substantively and procedurally fair.

# South Africa

## Draft National Migration Policy and Employment Services Amendment Bill

The Minister of Employment and Labor has published a Draft Bill. The aim of the Draft Bill is to provide the legal framework which regulates the employment of foreign nationals while simultaneously providing for their protection. The Draft Bill would allow the Minister of Labor to:

1. specify maximum quotas for the employment of foreign nationals. Such quotas may apply to (i) one or more sectors (ii) one or more occupational categories (iii) nationally or (iv) one or more regions. The quota may be avoided if (i) a foreign national has critical skills; or (b) the Minister has granted an exemption
2. implement requirements on employers of foreign nationals to ascertain that they are entitled to work in South Africa and to perform work for which they are employed
3. protect foreign nationals from terms and conditions of employment that are not inferior
4. require the employers of foreign nationals to satisfy themselves that no other South African has the requisite skills and
5. recognize digital labor platforms as employers. A digital labor platform is defined as “an electronic entity that enables the provision of work or services to any other person in the Republic”.

**Impact date:** Awaiting. Comment on the Draft Bill closed on 28 May 2022. It received considerable criticism and the impact date is currently therefore uncertain.

**Employer implications/action needed:** Employers who employ foreign nationals should monitor the progress of the Draft Bill.

**Employer risk:** The Draft Bill provides that any person who employs or engages an employee or worker in contravention of the Act may be liable for a fine. In addition, an employee or worker is entitled to enforce any claim against the employer or any person who is otherwise liable in terms of any statute, collective agreement or the agreement entered into between the parties. The claim may also be enforced on behalf of an employee or worker by a labor inspector or bargaining council agent.

**Link:** <https://www.gov.za/documents/employment-services-amendment-bill-draft-28-feb-2022-0000>

## Employment equity plans

The Employment Equity Amendment Bill, which seeks to eliminate current employment equity plans and impose sector-specific employment equity goals, was passed by the Parliament's National Assembly in November 2021. The Bill seeks to ensure stricter regulation of employment equity plans.

**Impact date:** September 2022

**Employer implications/action needed:** Employers will no longer be able to rely on their existing employment equity plans and will need to ensure that new employment equity plans meet specified sectoral numerical targets.

**Employer risk:** Employers who fail to comply with the Employment Equity Act, including any failure to prepare an employment equity plan that meets the required sectoral numerical targets, risk a fine. However, fines will usually be imposed only after certain enforcement measures have first been taken. Such enforcement measures include written undertakings and compliance orders.

**Link:** [https://www.gov.za/sites/default/files/gcis\\_document/202108/b14b-2020-employment-equity-amendment-bill.pdf](https://www.gov.za/sites/default/files/gcis_document/202108/b14b-2020-employment-equity-amendment-bill.pdf)



# Spain



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### Equal Treatment and Non-discrimination

A new law establishes new unlawful discrimination grounds. In particular, it includes illness or health conditions, serological status and/or genetic predisposition to suffer from pathologies and disorders.

**Impact date:** 14 July 2022

**Employer implications/action needed:** Any provision or act that “constitute or cause discrimination” will be considered null and void.

**Employer risk:** Where discrimination is found, the employer will have to pay compensation for moral damage and restore the victim to the situation prior to the discriminatory incident, where possible.

**Link:** [Law 15/2022 on Equal Treatment and Non-discrimination](#)

# Sweden



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### Implementation of the Working Conditions Directive

The EU Directive on transparent and predictable working conditions has been implanted in Sweden. The implementation of the Directive into Swedish law has primarily been made through changes in the Swedish Employment Protection Act (Sw: Lag om anställningsskydd). The changes include additional information entitlements for new hires regarding terms and conditions of employment and a clarification that employers may not prohibit employees from taking up other employment in parallel (unless it is a competing employment).

**Impact date:** 29 June 2022

**Employer implications/action needed:** Employers should review and where necessary update employment handbooks and employment contact templates.

**Employer risk:** Employers risk damages for any breach of the information obligation towards new hires.

**Links:** [EU Directive on transparent and predictable working conditions briefing](#); [Keeping up with EU Directives briefing](#); [Changes in Swedish law following the implementation of the Transparent and Predictable Working Conditions Directive briefing](#)

# Sweden

## Changes in the Employment Protection Act

Changes to the Employment Protection Act include important clarifications on what constitutes objective grounds for dismissal. The two legal grounds are still either redundancy or personal reasons, but there will be clarifications around what circumstances should be taken into account. In addition, employees will no longer have a right to remain in employment during court proceedings regarding invalidation of a dismissal (the current rule being that employees have a right to remain in employment, except for cases of summary dismissal).

All employers, irrespective of the number of employees, will be able to exempt three employees from the last-in first-out list in redundancy situations (the current rule is that employers with up to 10 employees may exempt two employees from the last-in first-out list). In addition, if an employer reorganizes the business so that employees with the same work duties are given shorter working hours (e.g. in cases where the employer wants to avoid a redundancy situation), the employer will need to adhere to the last-in first-out principle in the same way as for a redundancy situation. Employees must also be given an adjustment time before their shorter working hours are implemented, the length of that adjustment time corresponding to their contractual notice period (but no longer than three months).

Fixed-term employments will automatically convert to an indefinite-term employment after 12 months' employment in a five-year period, as opposed to the current rule where fixed-term employments convert to an indefinite-term employment after two years' employment in a five-year period. Further, it will be required to explicitly state to the employee in writing that the employment is a fixed-term employment. Otherwise, there will be an assumption that the employment is on an indefinite term.

Employers will be legally obliged to offer indefinite-term employment to temporary agency workers who have worked for the employer at the same operational unit for more than 24 months during the last 36-month period, or pay compensation (in the amount of twice the worker's monthly salary) to the temporary worker instead. Offers for indefinite-term employment must be given within one month of the temporary agency worker qualifying for the offer.

There will also be wider possibilities to deviate from the Employment Protect Act through collective bargaining agreements.

**Impact date:** 1 October 2022

**Employer implications/action needed:** Employers should review, and where necessary update, employment handbooks, temporary agency worker procedures, and employment contract templates to take account of the changes to the law. Employers should also ensure that they have in place robust processes to keep track of how long their temporary agency workers have worked at each operational unit during the last 36 months and, where applicable, either offer indefinite-term employment or pay compensation.

**Employer risk:** Employees will no longer have a right to remain in employment during court proceedings regarding an invalidation of a dismissal. This is a significant change, since employers will no longer have to pay employees their salary and other employment benefits during the court proceedings. However, if the employee wins the case (i.e., the court declares the termination to be invalid) the employer must pay salary retroactively.



# Switzerland



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### Case law - No right to ask for employees' vaccination status

The appeal committee of the universities of Zurich has held that the Zurich University of Applied Sciences is not entitled to process information on whether their employees are vaccinated against COVID-19. The basis of the decision was that there is no need to process such health-related personal data.

**Impact date:** 19 May 2022

**Employer implications/action needed:** Although the decision is based on public law applicable to universities, the data protection principles applicable to private-law-based employment relationships are similar. Employers should carefully assess whether the processing of health-related personal data, such as vaccination status, is lawful.

### Adoption leave

New statutory adoption leave for adopting parents will enter into force in Switzerland. Working parents who adopt a child under the age of four will be entitled to two weeks' paid leave.

**Impact date:** Awaited.

**Employer implications/action needed:** Employers should monitor the progress of this statutory amendment and take planning actions to adjust leave policies and payroll arrangements and notify employees once the new leave becomes law.

# UAE



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### New Labor Law

The new federal UAE Labor Law was introduced on 2 February 2022. Pursuant to this law, all employees (other than those in DIFC and ADGM) must, by 1 February 2023, be transitioned onto a fixed term employment contract which complies in full with the new labor law.

All employers must take the necessary steps to transition their existing workforce onto a new fixed term employment template and to use such template for new employees. Furthermore the new labor law has introduced a range of changes which necessitate an employment handbook policy review/update.

**Impact date:** Immediate. Policies should now be updated. The new employment contract template, if not already created, should be prepared and used for new joiners. Existing employees should then be transitioned onto the new template as soon as possible and certainly no later than 1 February 2023.

**Employer implications/action needed:**

1. Templates to be updated
2. Practices to be assessed (for example changes in the Wages Protection System means there are some new options for payroll)
3. New employment contract template to be prepared and used with new joiners
4. Existing employees to be transitioned onto new template together with any registered templates prescribed by the authorities
5. Ensure consistency between policies, new employment contract template and registered template (particularly alignment between contract term, fixed term commencement date and expiry date).

**Employer risk:** Any disputes regarding policies and employment contracts that are out of date will be determined in the favor of the employee. This means the employee can cherry-pick between contractual and legal provisions to create the most beneficial position for themselves. This potentially increases financial exposure for employers and impacts the good management of employment matters. It also increases the risk of disputes.

**Link:** [www.mohre.gov.ae](http://www.mohre.gov.ae)

UK



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### Case law – Unfair dismissal

The Employment Appeal Tribunal has upheld an Employment Tribunal decision that the dismissal of an employee who declined to come into work, believing that COVID-19 presented circumstances of serious and imminent danger “all around” but not specifically in their workplace, was not automatically unfair.

**Impact date:** 6 May 2022

**Employer implications/action needed:** Although specific on its facts, the judgement provides useful clarifications concerning automatically unfair dismissal related to Health & Safety, including that a reasonable belief in risk of serious harm can relate to circumstances outside of the workplace. Employers should take this into account in Health & Safety policies and enforcement.

**Link:** [Rodgers v Leeds Laser Cutting Ltd](#)

### Extension of fit note certification

Healthcare professionals including nurses, occupational therapists, pharmacists and physiotherapists may now certify fit notes (in addition to GPs).

**Impact date:** 1 July 2022

**Employer implications/action needed:** Employers should note this update to the validity of fit note certifications.

**Link:** [The Social Security \(Medical Evidence\) and Statutory Sick Pay \(Medical Evidence\) \(Amendment\) \(No. 2\) Regulations 2022](#)

### Case law – Holiday pay

The Supreme Court has confirmed that an employer was wrong to cap holiday pay at 12.07% of annualized hours for a zero hour contract worker working on a term-time-only basis at a school.

**Impact date:** 20 July 2022

**Employer implications/action needed:** The outcome of this appeal has implications for those workers who have no normal working hours - particularly for those who work on a term-time basis or intermittently throughout the year.

**Employer risk:** Employers risk significant claims for backpay in the event that they do not correctly calculate holiday pay.

**Link:** [Brazel v Harpur Trust](#)

UK

### Temporary workers to backfill employees who are taking part in industrial action

New legislation repeals previous restrictions which prevented staffing agencies from supplying temporary workers to backfill employees who are taking part in industrial action. In addition, the legislation has raised the maximum damages that courts can be awarded against a trade union, when strike action has been found by the court to be unlawful. The cap on damages has increased from £250,000 to £1 million for large trade unions.

**Impact date:** 21 July 2022

**Employer implications/action needed:** While this law change will provide greater flexibility to businesses, companies will still be required to abide by broader health and safety rules that keep employees and the public safe. In addition, it will be the responsibility of individual businesses to hire temporary workers with the correct and suitable skillset and/or qualifications to meet the obligations of the role.

**Links:** [The Conduct of Employment Agencies and Employment Businesses \(Amendment\) Regulations 2022](#); [The Liability of Trade Unions in Proceedings in Tort Order 2022](#)

### Employment status

The Government has published a consultation response and new guidance with a view to “*making it easier for individuals to work out their own status while ensuring that the employment status system remains flexible and continues to adapt to modern working practices*”.

**Impact date:** 26 July 2022

**Employer implications/action needed:** The Government has decided against reforming employment legislation governing employment status, meaning that the current three-tier approach of employee, worker and independent contractor will continue unchanged.

**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.

**Links:** [Consultation Response](#); [new Guidance on Employment status and employment rights](#); [Government decides against legislation to clarify employment status](#)



UK



### Ban on exclusivity clauses

Draft regulations are expected to come into force which:

- extend the ban on exclusivity clauses, making them unenforceable where the guaranteed weekly income is below or equivalent to the Lower Earnings Limit (currently £123 pw) a week
- extend the right not to be unfairly dismissed/subject to a detriment for failing to comply with an exclusivity clause.

**Impact date:** Awaiting.

**Employer implications/action needed:** If exclusivity clauses are invalidated for lower earners, employers relying on such clauses will need to review their reasons for use and potential impact.

**Link:** [The Exclusivity Terms for Zero Hours Workers \(Unenforceability and Redress\) Regulations 2022 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

### Guidance on ethnicity pay reporting

Having confirmed that it will not introduce mandatory ethnicity pay reporting, the Government is expected to publish guidance on ethnicity pay reporting.

**Impact date:** Awaiting.

**Employer implications/action needed:** The guidance is expected to assist employers in understanding and tackling pay gaps within their organizations and in building trust with employees. What information employers are encouraged to collect and disclose will be an essential starting point.

**Link:** [Briefing: Government publishes proposals to address racial and ethnic disparities](#)

UK



### "Fire & re-hire" tactics

So-called "fire and re-hire" (involving dismissal and re-engagement on new terms, when contract changes cannot be agreed) has come under adverse scrutiny. The Government has announced that it intends to publish a new Statutory Code of Practice (Code) to detail practical steps, including the need for meaningful consultation, when employers change employment terms by dismissing and re-engaging employees. The details of the Code are awaited. In the meantime, Acas has published new guidance and the Court of Appeal has overturned an injunction imposed by the High Court which had permanently prevented an employer proceeding with 'fire and rehire' proposals to remove a pay enhancement.

**Impact date:** Awaiting.

**Employer implications/action needed:** The Acas guidance states that employers should thoroughly explore all other options before deciding to dismiss and re-engage employees, and such strategy should only be considered as a last resort given that it is an "extreme step". Employers should carefully consider the use of such strategies and, where adopted, should ensure that the process is carefully planned, including meaningful consultation. Employment Tribunals will be able to apply an uplift of up to 25% of an employee's compensation if an employer unreasonably fails to comply with the Code where it applies.

**Employer risk:** Increasingly, "fire and re-hire" strategies risk reputational, employee relations and legal challenges.

**Link:** [Acas guidance](#); [USDAW & Ors v Tesco Stores Ltd](#)

### Neonatal leave/pay and tips in the hospitality sector

The Government has announced that it is backing two Private Members Bills which will fulfil commitments of its own relating to neonatal care leave/pay and hospitality tips. The first will introduce a statutory right to neonatal leave and allow parents to take up to 12 weeks of paid leave if their babies are admitted into hospital up to the age of 28 days and have a continuous stay in hospital of 7 full days or more. The second will make it unlawful not to pass on all tips to staff. It also makes provision for a Code of Practice to promote fairness and transparency in relation to the distribution of tips.

**Impact date:** Awaiting.

**Employer implications/action needed:** If and when the legislation is passed, all employers will need to update their neonatal policies. Businesses that currently use discretionary service charges to offset expenses, or make deductions from tips, will face increased costs.

USA



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### California – COVID-19 paid sick leave

Employers with 25 or more employees are required to supplement paid sick leave for up to 80 hours for full time employees. New legislation in California requires such sick leave to be made available to employees (including part-time employees) who are infected with COVID-19 and are unable to work remotely, are receiving a vaccination for COVID-19, are seeking a medical diagnosis of COVID-19, are caring for someone with COVID-19, or are caring for a child whose school or childcare location is closed due to COVID-19.

**Impact date:** 19 February 2022 (retroactive to 1 January 2022) to 30 September 2022.

**Employer implications/action needed:** The availability of the sick leave must be notified on employee pay slips. Employers must post a written notice of the availability of the leave. Compensation for leave is capped at \$511 per day and \$5,110 total per employee.

**Employer risk:** Employers risk penalties if they fail to provide the paid sick leave and/or accurate wage statements.

### Illinois – Equal pay registration certificate

Employers with 100 or more employees in Illinois must apply for an Equal Pay Registration Certificate in order to comply with the new reporting requirements.

**Impact date:** 24 March 2022 – 23 March 2024.

**Employer implications/action needed:** Employers of 100 or more employees should comply and report the required employee information. Employers should also consider conducting pay audits.

**Link:** [Equal Pay Registration Certificate \(EPRC\) - Conciliation and Mediation Division \(illinois.gov\)](https://www.illinois.gov/eprc)

### Washington State - Silenced No More Act

Washington now prohibits nondisclosure and non-disparagement agreements that bar employees from "disclos[ing] or discuss[ing] conduct, or the existence of a settlement involving conduct, that the employee reasonably believed under Washington state, federal, or common law to be illegal discrimination, illegal harassment, illegal retaliation, a wage and hour violation, or sexual assault, or that is recognized as against a clear mandate of public policy," where the conduct occurred "at the workplace, at work-related events coordinated by or through the employer, between employees, or between an employer and employee, whether on or off the employment premises.". The Act does allow an agreement to limit the disclosure of the amount of a settlement.

**Impact date:** 9 June 2022

**Employer implications/action needed:** Washington employers should be aware that the Act has retroactive effect: any previously existing agreements that now violate the Act are invalid. Employers should also note the Act's provisions and ensure compliance when entering into new agreements with employees.

**Employer risk:** Any attempt to enter into a prohibited agreement will render an employer liable for the greater of actual damages or \$10,000.

USA

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### Connecticut – Prohibition on religious and political corporate meetings

A new Connecticut law grants employees a statutory cause of action against their employer if the employer “*subjects or threatens to subject any employee to discipline or discharge*” because the employee refuses to “*attend an employer sponsored meeting ... the primary purpose of which is to communicate the employer’s opinion concerning religious or political matters*” or refuses to “*listen to speech or view communications, the primary purpose of which is to communicate the employer’s opinion concerning religious or political matters.*”. It is expected that litigants may seek to challenge the legality of the new law under the First Amendment of the federal constitution.

**Impact date:** 1 July 2022

**Employer implications/action needed:** Employers should review their policies regarding employee attendance at meetings that may be considered as having the primary purpose of communicating the employer’s political or religious beliefs.

**Employer risk:** Violating employers render themselves liable to judicial action by employees.

### District of Columbia – Minimum wage

The minimum wage rate for employees in the District of Columbia has increased to \$16.10 per hour.

**Impact date:** 1 July 2022

**Employer implications/action needed:** Employers should ensure that they adhere to the new minimum wage requirement.

**Employer risk:** Wage and hour law penalties and damages claims by employee(s) are possible in the event of any breach.

### Nevada – Minimum wage

Nevada employers are required to increase their minimum wage every year on 1 July. The law requires employers to increase their minimum wage by seventy-five cents every year until the minimum wage is \$11 for employers that offer health insurance and \$12 for employers that do not. The minimum wage increases this year are:

- employers that offer health insurance must increase their minimum wage from \$8.75 to \$9.50
- employers that do not offer health insurance must increase their minimum wage from \$9.75 to \$10.50.

**Impact date:** 1 July 2022

**Employer implications/action needed:** Employers should review their pay arrangements to ensure that at least the minimum wage rates are paid.

**Employer risk:** Employers that pay less than minimum wage risk civil action.

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### New Mexico – Paid sick leave

The New Mexico state legislature enacted a statute that requires all New Mexico employers to provide one hour of paid sick leave for every thirty hours an employee works, up to sixty-four hours per year.

**Impact date:** 1 July 2022

**Employer implications/action needed:** All New Mexico employers should review and, where necessary update their policies to provide at least one hour of paid sick leave for every thirty hours their employees work. Alternatively, employers can elect to guarantee their employees sixty hours of paid sick leave for the year, or a pro rata share of sixty hours of paid sick leave for employees that start later than 1 January of the year.

**Employer risk:** Employers that violate the statute risk liability for civil fines: the greater of the value of withheld sick leave payment multiplied by three, or \$500.

### Colorado – Paid Family Leave Insurance (“FAMLI”)

Colorado has passed a new law requiring paid family leave for most employees; it is funded through a payroll tax by both employers and employees. Contributions begin on 1 January 2023 and benefits will be available beginning 1 January 2024. Employees may be eligible to take up to 12 weeks off for certain medical conditions for themselves and their family members. This is protected leave so employers must return employees to their prior position or an equivalent position with the same pay, benefits, and seniority. (This leave may run concurrently with FMLA leave, if applicable.)

**Impact date:** 1 January 2023

**Employer implications/action needed:** Employers will need to begin making contributions to the program on 1 January 2023 so that funds will be available for the benefit by 1 January 2024.

**Employer risk:** There is a three-year statute of limitations. Employees may bring a claim in court for interference with the right to take leave and may be awarded damages and equitable relief; the employer may also be fined up to \$500 per violation.

**Link:** <https://famli.colorado.gov/employers/famli-toolkit-for-employers>

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### Minnesota – Paid sick and safe leave

The Bloomington, MN City Council followed the lead of other MN cities – Minneapolis, St. Paul, and Duluth – to enact an ordinance requiring employers to provide paid sick and safe leave for employees. The ordinance applies to any employer with five or more employees who perform at least eighty hours of work per year within the geographical confines of Bloomington. This includes employers that are not themselves located in Bloomington but who have five or more employees who work remotely from Bloomington. The ordinance requires one hour of paid sick and safe leave for every thirty hours worked, up to forty-eight hours a year.

**Impact date:** 1 July 2023

**Employer implications/action needed:** Affected employers should review and, where necessary, update their policies to provide at least one hour of paid sick and safe leave for every thirty hours worked, up to forty-eight hours a year. The policy must allow employees to carry unused sick and safe time over to successive years up to at least eighty hours.

**Employer risk:** Employers who fail to pay the required leave risk being required to pay the dollar value of the sick and safe time withheld, multiplied by two.

**Link:** [Establishing Earned Sick and Safe Leave in the City of Bloomington \(bloomingtonmn.gov\)](https://www.bloomingtonmn.gov/DocumentCenter/View/11111/Establishing-Earned-Sick-and-Safe-Leave-in-the-City-of-Bloomington)

### Washington D.C. – Cannabis law

Washington D.C.'s mayor signed into law a prohibition on employer adverse action against employees on the basis of the employees': use of cannabis; status as a medicinal cannabis user; or failed marijuana drug test without additional evidence of impairment.

**Impact date:** The law is currently unfunded and will go into effect either on 13 July 2023 or once included in an approved budget plan.

**Employer implications/action needed:** Washington D.C. employers should review their drug-testing and marijuana use policies to ensure compliance once the law is in effect.

**Employer risk:** Violating employers risk being subject to a private right of action for discriminating against medicinal marijuana use. For discrimination against recreational marijuana use, claimants must first exhaust administrative remedies with the Office of Human Rights before gaining a private right of action. The Office of Human Rights may order employers: to pay double the civil penalty if the employer violated the law more than once in the previous year; to pay the complainant's lost wages; to pay reasonable attorneys' fees; to undergo training; to reinstate an employee; and to provide other relief necessary to undo any adverse employment action.

### Maryland – Paid family and medical leave law

Maryland enacted a new paid family and medical leave law that requires employers to provide eligible private sector employees with up to 12 weeks per year of paid time off for purposes related to caring for oneself or a family member. Eligible employees include employees who worked at least 680 hours in the prior 12 months.

**Impact date:** 1 January 2025

**Employer implications/action needed:** Employers that must provide the leave are those that employ one employee in the state, although only employers with at least 15 employees, with limited exception, must contribute to the Program. Employers must provide notice to employees to benefits under the law beginning in 2023.

**Employer risk:** Possible penalties for failure to comply.

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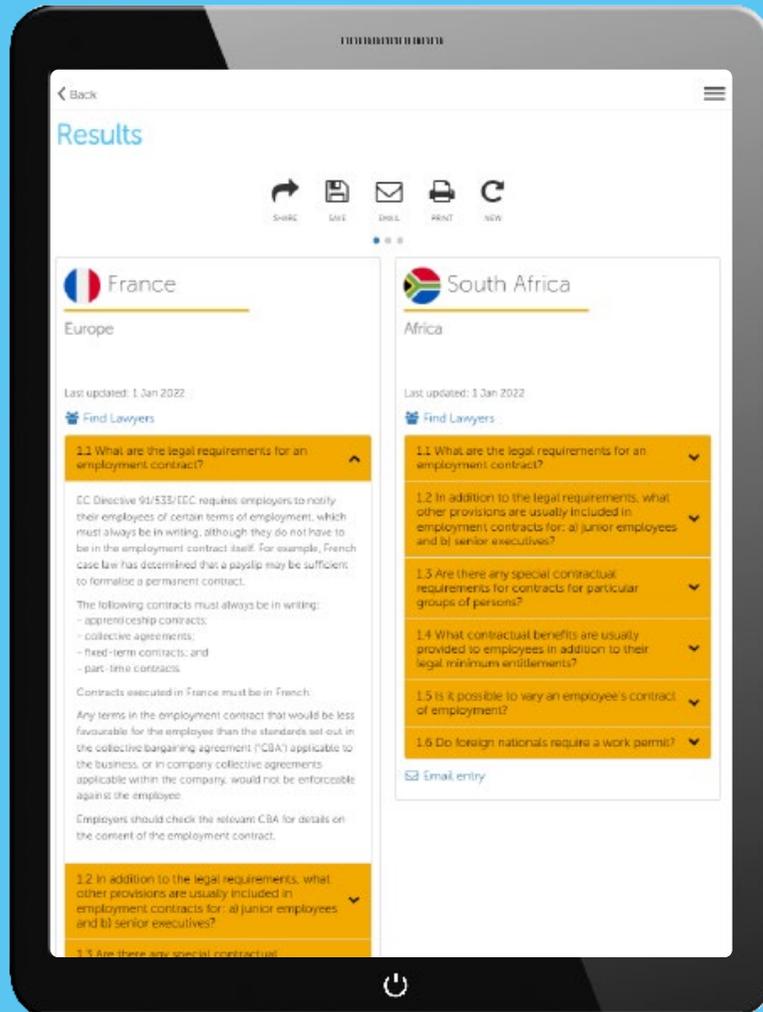
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