Alliant Global Services

Global Knowledge Center – Legal & Regulatory Updates

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Contents

Colombia

Timeframe for mandatory breastfeeding breaks extended from 6 months to 2 years

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Effective 31 July 2023, employers must grant a daily 30-minute breastfeeding break to employees who are breastfeeding a child between six months and two years of age, provided breastfeeding is continued beyond the in initial six months of the child's life, during which employees were already entitled to two 30-minute breastfeeding breaks per day.

The amendment concerns all employers and all employees breastfeeding a child who is less than two years of age.

Employer implications

Observing the extension

Law 2306 of 2023 does not provide for employees having to demonstrate or certify the continuation of breastfeeding beyond the initial six months of the child's life, in order to continue taking breastfeeding breaks at a reduced frequency of 30 minutes per day.

This extension of the timeframe over which eligible employees are entitled to a breastfeeding break raises the question of how employers could in effect confirm an employee's continued breastfeeding beyond the initial six months. Nevertheless, all employers must observe the new extended period of breastfeeding break entitlement.

Employment protection

Law 2306 of 2023, does not amend Article 239 of the Labor Code (*Código Sustantivo del Trabajo, CST*), which specifically prohibits the termination of an employee on the basis of pregnancy or breastfeeding, but limits this employment protection to the pregnancy period and to the 18 weeks following the birth of a child (which also corresponds to the duration of the statutory maternity leave).

Therefore, an employee who is terminated during the extended breastfeeding period, but after the eighteenth week following childbirth and up to two years of age, may allege that the termination was discriminatory, but will have the burden of proof of a causal link between the termination and her status as a nursing mother.

Provision of a lactation room

Law 2306 of 2023, does not amend the statutory requirement for employers to provide a lactation room, which were introduced by Law 1823 of 2017, and provided that all private sector employers with a capital

amount equal to or greater than 1,500 times the statutory monthly minimum wage (COP 1,160,000 in 2023), or those employers with a lower capital, but who have more than 50 employees must have a lactation room.

Employer Actions

Employers are advised to update their breastfeeding-related policies and procedures and the necessary employee communication materials to reflect their new obligation to grant a daily 30-minute break to employees who are breastfeeding a child between six months and two years of age, provided that breastfeeding is continued beyond the initial six months of the child's life (during which employees were already entitled to two daily 30-minute breastfeeding breaks).

Underlying legislation

Law 2306 of 31 July 2023 promoting maternity and early childhood protection, creating incentives and rules for the creation of breastfeeding areas in public spaces, and introducing other provisions (*Ley 2306 de 2023 de Julio 31 por medio de la cual se promueve la protección de la maternidad y la primera infancia, se crean incentivos y normas para la construcción de áreas que permitan la lactancia materna en el espacio público y se dictan otras disposiciones*), was published in the Official Journal (*Diaro Oficial de Colombia*) No. 52473 on 31 July 2023, and came into effect on the same day.

France

Decree specifies the terms for taking and dividing adoption leave, and for combining it with family event leave

Published 25 September 2023

The entry into effect of some of the new adoption leave-related provisions that were introduced by the Law of 21 February 2022, aimed at reforming adoption (*Loi n° 2022-219 du 21 février 2022 visant à réformer l'adoption*) were pending the publication of an implementation decree.

Specifically, the provisions for of drawing on adoption leave entitlements, as well as the terms for taking the three-day family event leave (*congé pour événements familiaux*), which is a special leave entitlement to be granted upon the arrival of an adopted child, remained to be clarified by decree, prior to entering into effect.

Decree No. 2023-873 of 12 September 2023, precisely provides these clarifications on the terms and conditions for taking and dividing adoption leave entitlement.

The measures of the Decree apply to parents to whom a child is entrusted for adoption from 15 September 2023.

Drawing on adoption leave

The Decree specifies that adoption leave can be drawn over a timeframe which starts no earlier than 7 days before the child's arrival at the home of the adopting parent(s) and ends no later than 8 months after that date.

According to the new Article D. 1225-11-1 of the Labor Code (as introduced by the Decree), the adoption leave entitlement can be split into two periods of a minimum duration of 25 days each. Furthermore, when the period of leave is shared between the two parents, it can for each parent be divided into two periods, also of a minimum duration of 25 days each.

Family event leave

An employee who takes adoption leave can combine the leave with their three-day family event leave (*congé pour événement familial*) entitlement upon the arrival of an adopted child, which is provided for by Article L. 3142 -4, 3 bis of the Labor Code.

The Decree specifies that at the employee's discretion this leave starts either during the period of seven days preceding the adopted child's arrival, or on the day of the child's arrival, or on the first working day which follows the child's arrival.

Employer Actions

Employers must ensure that they grant leaves to eligible employees in compliance with the specifications provided by decree for taking and for dividing adoption leave entitlements, as well as for combining adoption leave with the family event leave entitlement.

Employers are advised to revise their internal leave policies and procedures, and to update relevant employee communication materials.

Underlying legislation

Decree No. 2023-873 of 12 September 2023 relating to the terms and conditions for taking adoption leave and leave for the arrival of a child placed for adoption (*Décret n° 2023-873 du 12 septembre 2023 relatif aux modalités de prise du congé d'adoption et du congé pour l'arrivée d'un enfant placé en vue de son adoption*), published in the Official Journal (*Journal officiel de la République française, JORF*) on 14 September 2023.

General information on adoption leave

Any employee to whom a child is entrusted for adoption is entitled to adoption leave.

The employee must notify their employer of the intended adoption leave dates.

Taking of adoption leave results in the suspension of the employee's employment contract and is therefore an unpaid leave. However, an eligible employee may claim cash benefits from social security during their adoption leave.

The maximum entitlement to adoption leave is:

- 16 weeks for one child;
- 18 weeks, if the adoption brings number of children for whom the employee assumes responsibility to at least three; and
- 22 weeks in the event of multiple adoptions.

The maximum entitlement can be taken by only one of the two parents or shared between them. When shared, the total entitlement increases by 25 additional days for one adopted child, and by 32 additional days for multiple adoptions.

In the event the entitlement is shared, the leave must be divided between the parents in a manner that the total duration of the adoption leave of each parent does not exceed the maximum entitlement that applies when adoption leave is not shared, i.e., 16 weeks, 18 weeks, or 22 weeks, as applicable.

India

Supreme Court rules that maternity benefits extend beyond the end of employment agreements

Published 14 September 2023

In a ruling of 18 August 2023, the Supreme Court of India instructed employers to honor the full benefits provided for under Sections 5 and 8 of the Maternity Benefits Act, 1961, irrespective of the timing of the end of the employment agreement.

Specifically, the Supreme Court ruled that an employee who has met the entitlement criteria specified in section 5(2) of the Maternity Benefits Act, (i.e., an employee who has worked for at least 80 days for the employer), is entitled to full maternity benefits, even when the timeframe of benefit payments go beyond the end date of the employment agreement.

This ruling could potentially impact private sector employers who resort to short-term employment contracts of six months or more.

Details of the case

The Supreme Court was considering an appeal against a Delhi High Court ruling that had limited maternity benefits due to an eligible employee to 11 days, on the basis that the employee's employment contract ended 11 days after her application for maternity benefits.

In reaching its ruling, the Supreme Court held that the word "discharge" under section 12(2)(a) of the Maternity Benefits Act includes any "discharge on conclusion of contract period". This observation potentially extends the ruling to cases where an employment contract has ended prior to an employee starting to receive any maternity benefit entitlements and is likely to affect private sector employers who commonly resort to short-term employment contracts of six months or more.

In its ruling, the Supreme Court also emphasized Section 27 of the Maternity Benefits Act, which explicitly provides itself precedence over any terms of an employment agreement that may conflict with the provisions of the Act.

Underlying Supreme Court Ruling

The Supreme Court of India, Civil Appeal No. 5010/2023 Dr. Kavita Yadav versus The Secretary, Ministry of Health and Family Welfare Department & Ors, ruling of 18 August 2023.

Ireland

Commencement date for new employee breastfeeding break entitlements and leave for medical care purposes announced

Published 12 September 2023

Effective 3 July 2023, the introduction of unpaid leave for medical care purposes and the extension of the timeframe over which employees are entitled to breastfeeding breaks commence.

These new entitlements were introduced as part of the Work Life Balance and Miscellaneous Provisions Act 2023, but were pending commencement orders in order to come into effect.

The commencement of these provisions was announced by a press release of 26 June 2023 from the Department of Children, Equality, Disability, Integration and Youth.

Unpaid medical care leave

The Work Life Balance and Miscellaneous Provisions Act 2023 introduced an unpaid leave for medical care purposes. This leave supplements the existing carer's leave and the *force majeure* leave and was pending the now announced commencement date.

Effective 3 July 2023, employees are entitled to a maximum of five days of unpaid leave over any 12-month period, starting from their first day of employment.

The leave is for providing care to certain individuals in need of support for serious medical conditions, which includes a child, a spouse, a civil partner, a cohabitant, a parent, a grandparent, a brother, a sister, or an individual who resides in the same household as the employee.

Drawing on the leave

Leave for medical care purposes must be drawn in one day increments at the least.

Requesting the leave

The employee is required to notify their employer in writing of their intention to take leave for medical care purposes.

The request must detail the flexible working arrangement including the start and end dates and be submitted no later than eight weeks before the proposed start date. Upon the employer's request, the employee must provide certain details and supporting documents.

Employment protection

The leave for medical care is employment protected, in that the returning employee will be entitled to the job they held before taking the leave. Employers are prohibited from penalizing employees who request or take such leave.

Breastfeeding break timeframe

Previously, mothers were entitled to take paid time during their workday (typically totaling one hour) for breastfeeding purposes without a reduction in pay, and this over a period of 26 weeks.

The Work Life Balance and Miscellaneous Provisions Act 2023, increased the duration of time over which a mother is entitled to paid time off for breastfeeding during their workday, from 26 weeks to 104 weeks. The provision was pending the now announced commencement date of 3 July 2023.

Employer Actions

Employers must comply with the provisions of the Work Life Balance and Miscellaneous Provisions Act 2023 that introduced unpaid leave for medical care purposes and extended the timeframe over which employees are entitled to breastfeeding breaks.

Employers are advised to revise their leave policies and procedures to account for these new employee entitlements, and to update and disseminate related employee communication materials.

Background

On 4 April 2023, the Work Life Balance and Miscellaneous Provisions Act 2023 was passed by the Oireachtas, transposing the provisions of the EU Work Life Balance Directive into Ireland's local legislation. The Act introduced the following provisions:

- Leave for care purposes,
- Flexible working arrangements for care purposes,
- Extension of the period over which mothers are entitled to leave or working hour flexibility for breastfeeding, and
- Introduction of paid domestic violence leave.

These provisions were pending commencement orders, some of which (e.g., domestic violence leave) are still pending. Additionally, the Workplace Relations Commission's Code of Practice regarding remote working arrangements remains to be published, following stakeholder feedback provided during a public consultation process that was initiated by the government in May 2023.

Israel

Public holiday for municipal authorities' and regional councils' elections must be observed on 31 October 2023

Published 11 September 2023

Tuesday, 31 October 2023 is the date of municipal authorities' elections, and regional councils' election. According to Section 97 b of the Local Authorities (Elections) Law, 5725-1965 (Amendment No. 44), the day must be observed as an employer-paid public holiday, and this applies to most employees.

Specifically, the day is to be observed as a public holiday for private sector employees who are a citizen or a permanent resident of Israel, and whose workplace is in the jurisdiction of the local authorities where the elections are held, as well as for employees registered in the voter register of such local authorities, even if their workplace is not in a local authority holding elections on that day.

Election-related public holiday payments

According to Section 97 c of the Law, an employee who has worked for an employer for at least 14 consecutive days prior to a general election is entitled to their salary on a public holiday for elections applicable to them.

Except for non-resident employees, all employees are entitled to an employer-paid public holiday for the elections. Should they, on their own initiative decide to work on that day, they would be entitled to 200% of their regular salary, or to 100% of their regular salary and an additional day off in lieu of the election-related public holiday.

Separately, on 13 July 2023, the Law to amend the laws of elections for local authorities, 2023-2023, was published in the Official Gazette, the Reshomot (רשומות). According to this law, non-resident employees are required to work on election days, and are therefore no longer entitled to double their regular pay for working on such days. In other words, employers will no longer be required to pay 200% of pay to non-resident employees who work on election days, not even for local authority elections.

Employer Actions

Employers must grant Tuesday, 31 October 2023 as a public holiday to their employees for municipal authorities' elections, and regional councils' election.

Except for non-resident employees who are now required to work on election days, employees are entitled to an employer-paid public holiday for these elections.

It is important to recall that employers cannot impose that an employee work on a public holiday. However, given the special pay entitlement of employees who choose to work on a public holiday, employers are advised to plan and account for their business continuity needs, in advance of the elections.

Finally, non-resident employees are no longer entitled to an increased pay for working on election days and are in effect required to work on such days.

Resources

Local Authorities (Elections) Law, 5725-1965 (in Hebrew, as amended)

Regulation restricts managers' insurance plan deposits

Published 12 September 2023

Effective 1 September 2023, employee deposits into a managers' insurance plan will be limited to the part of their salary that exceeds two times the national average monthly salary (ILS 11,730, as of 1 January 2023), so that any amounts up to twice the national average wage are deposited into a pension fund or a provident fund for an annuity, i.e., a fund that is not an insurance fund.

It should be noted that the restriction only applies to insurance policies opened on or after 1 September 2023. Similarly, the new restriction will not apply to transfers from one insurance policy that was opened prior to 1 September 2023 to another insurance policy that was also opened prior to 1 September 2023.

Due in particular to higher management fees and premium rates, employees' guaranteed savings from a managers' insurance plan are typically lower than savings achieved through other retirement savings vehicles. The restriction is intended to ensure adequate retirement income for all savers, in accordance with Government Decision No. 202 of 24 February 2023 regarding "increasing competition in the insurance and savings brokerage industry".

A managers' insurance plan is (along with pension funds and provident funds) one of the three types of pension savings plans approved by the Commissioner of the Capital Market, Insurance and Savings. In Israel, the main difference between a pension and a provident fund relates to the type of risks they must cover, e.g., pension funds must provide collectively financed death and disability benefits, whereas provident funds, do not provide death and disability benefits.

Managers' insurance plans are subject to the same rules and regulations applicable to pension funds and provident funds and have the same tax advantages in terms of both deposits and withdrawals.

Employer Actions

The new limitations in terms of employee deposits into a managers' insurance plan potentially affect the terms of employment agreements concluded on or after 1 September 2023.

Employers are advised to:

- Review and revise any standard wording used in their employment agreements to ensure compliance with the new restriction that applies to all new employees; and
- Review and address the terms of employment agreements of all employees who could have but had not already opened a managers' insurance policy prior to 1 September 2023.

Underlying legislation

The Income Tax Regulations (rules for the approval and management of provident funds (amendment), 2023 (*תקנות מס הכנסה (כללים לאישור ולניהול קופות גמל)(תיקון), התשפ"ג-2023*), were published in the Official Gazette, the Reshomot (*רשומות*), on 12 July 2023.

Mexico

Doubling of employees' annual leave bonus, and introduction of paid family care leave proposed

Published 12 September 2023

On 19 August 2023, in a press release the federal Chamber of Deputies announced that two proposals to amend the federal Labor Code had been presented by the Chair of the Employment Committee to the Chamber's Permanent Commission.

The proposals aim to enhance employees' working conditions, by:

- Doubling the statutory annual bonus (*Aguinaldo*), commonly referred to as the Christmas bonus to 30 days of salary (up from currently 15 days), to align private sector employee entitlements provided for by Article 87 of the Federal Labor Law, with those of federal public sector employees, provided for by the Federal Workers' Law; and
- Introducing up to three employer-paid days of leave for *force majeure* or family care reasons. Currently such entitlements depend on collective bargaining agreements.

While three attempts to increase the statutory annual bonus have already been made in 2023, this latest attempt has been presented in the wake of a series of employee-friendly measures that reflect the federal government's announced strategy and recent reforms to enhance employee wellbeing through improved statutory benefits, e.g., recent doubling of statutory annual leave entitlements, regulated remote work framework, and enhanced health and safety measures.

Netherlands

Continued wage payment obligations to AOW-aged employees during sick leave reduced

Published 4 September 2023

Effective 1 July 2023, in the case of employees having reached the statutory state pension age (*Algemene Ouderdomswet, AOW*), the period over which employers must continue to pay employee wages during an employee's sick leave has been reduced from previously 13 weeks to six weeks.

However, for AOW-aged employees who were already on sick leave on 1 July 2023, the previously applicable period of 13 weeks of employer-paid wages continues to apply.

If sick leave starts before the date on which the employee reaches the AOW pension age, six weeks of continued employer wage payments (instead of previously 13 weeks) apply from that date, provided the total period of employer-paid sick leave does not exceed 104 weeks.

Payments during sick leave

Typically, employers are required to pay at least 70% of their employees' latest salary (100% in certain cases, e.g., organ donation or pregnancy-related sick leave) for up to 104 weeks, and to make efforts to reintegrate the employee into the workplace upon their return from sick leave. During an employee's first year of sick leave employers must supplement sick leave payments if 70% of the employee's wages amounts to less than the statutory minimum wage.

In certain cases, a sickness benefit is provided to the employer by the Employee Insurance Agency (*Uitvoeringsinstituut Werknemersverzekeringen, UWV*), e.g., in cases where the sick leave is due to pregnancy or child delivery, to organ donation, or pertains to certain older employees covered by the unemployment compensation program.

Article III of the Working after State Pension Age Act (*Wet werken na de AOW-gerechtigde leeftijd*) reduced the period of continued wage payments in the event of illness from 104 to six weeks for employees entitled to AOW pension benefits.

However, the Article provided for a transitional measure, consisting of 13 weeks of employer-paid sick leave applied until a time that was to be determined by Royal Decree. In other words, the expiration of the transition period was pending a Royal Decree.

Working beyond the AOW pension age is becoming increasingly common. The government sees working beyond 65 years of age as part of the solution to the current labor supply shortage.

According to figures from the Central Bureau of Statistics (*Centraal Bureau voor de Statistiek, CBS*), the number of individuals who continue to work beyond the age of 65 is increasing. In 2003, 5.5% of individuals

between the ages of 65 and 74 years were employees. The percentage continued increasing annually, reaching 16.2% in 2022.

Employer actions to consider

In light of the reduction from 13 to six weeks of the period over which employers must continue to pay AOW pension age employees' wages during periods of sick leave, employers are advised to make the necessary revisions to their internal policies and procedures, and to inform affected employees of this change in in short-term disability benefits.

Underlying legislation

This transitional measure of 13 weeks of employer-paid sick leave has been amended to expire via the Decree of 12 May 2023, establishing of the time referred to in Article 48n, first paragraph, of the Police Act 2012, article 12q, ninth paragraph, of the Defense Civil Servants Act, article VIIIA, first and third paragraphs, of the Act have an effect the state pension age and Article 104, first paragraph of the Sickness Benefits Act (*Besluit van 12 mei 2023, houdende vaststelling van het tijdstip als bedoeld in artikel 48n, eerste lid, van de Politiewet 2012, artikel 12q, negende lid, van de Wet ambtenaren defensie, artikel VIIIA, eerste en derde lid, van de Wet werken na de AOW-gerechtigde leeftijd en artikel 104, eerste lid, van de Ziektewet*), published in the Official Journal (*Staatsbald*) on 24 May 2023.

Government's 2024 Budget Plan and Tax Proposal released

Published 21 September 2023

On budget day 19 September 2023, the Ministry of Finance released its 2024 Budget Plan and Tax Package (*Pakket Belastingplan*) which includes the 2024 Tax Plan (*Belastingplan*) to be reviewed, debated, and possibly amended by Parliament, prior to being enacted.

Key employment and HR benefits-related measures of the government's 2024 Tax Plan are presented below. The proposals may be subject to change throughout the legislative process. They need to be approved by the two houses of Parliament to enter into force. Although elections are scheduled for November, Parliament has indicated that it will process the proposals in the 2024 Tax Package during the month of October 2023, and vote on the legislative proposals at the end of October.

Cap on the 30%-Rule

The 30%-Rule is a special tax regime whereby qualifying foreign national employees can receive a tax-exempt reimbursement for extraterritorial expenses (incurred in connection with working in the Netherlands) corresponding to 30% of their Netherlands taxable pay, irrespective of the actual expenses incurred.

Currently, the 30% allowance is calculated on the foreign national employee's annual employment remuneration that is taxable in the Netherlands.

Based on the proposed amendment, as of 1 January 2024, the salary base to which 30% is applied would be capped and at the annually adjusted amount referred to as the General remuneration maximum (*Algemeen bezoldigingsmaximum*), which was set by a Regulation of the Ministry of Interior at EUR 233,000 for 2024. In other words, an employer would be able to annually grant an incoming foreign national employee a maximum of EUR 69,900 (i.e., 30% of EUR 233,000) as income tax-exempt salary per year.

The proposed amendment entails a two-year transition phase for employees who already applied the 30% payroll tax facility in 2022, for whom, the payroll tax facility would not start being capped until 1 January 2026.

Travel allowances

As of 1 January 2024, the 2024 Tax Plan would increase the maximum flat-rate income tax-exempt travel or commuting allowance paid by employers (*reiskostenvergoeding*), from currently EUR 0.21 per kilometer to EUR 0.23 per kilometer.

Employers can reimburse their employees' commuting expenses. The reimbursements are tax-exempt. This also applies to public transport costs, including reasonable expenses due to commuting via taxi, boat, or airplane.

Currently, employers may reimburse the employee more than the tax-exempt travel allowance, in which case the excess amount counts as wages for income tax purposes.

However, employers may resort to their tax-exempt discretionary budget under the Work-related Cost Scheme (*werkkostenregeling, WKR*) to ensure that payments in excess of the allowance are also exempt from income tax for the employee.

Employers' tax-exempt discretionary budget

The WKR allows employers to spend part of their taxable payroll on employee benefits that would then be exempt from income tax. The amount is referred to as the discretionary scope (*vrije ruimte*). These benefits include in-kind benefits, or the provision of company bicycles for example.

Since 1 January 2023, an employer's tax-exempt discretionary budget corresponds to 3.00 % of their gross payroll amount, up to EUR 400,000 (i.e., EUR 12,000), plus 1.18% of total payroll amounts exceeding EUR 400,000. Starting 1 January 2024, the percentage of the tax-exempt discretionary budget up to EUR 400,000 would be reduced from 3.00% to 1.92%, representing a maximum of EUR 7,680, plus 1.18% (unchanged) of total payroll amounts exceeding EUR 400,000.

Tax exemption of public transport card benefits

Currently part of the value of benefits in the form of private use of an employer-provided public transport subscription is subject to income tax.

The 2024 Tax Plan would exempt from income tax, the value of any benefit received from using an employer-provided public transport card for private purposes, starting 1 January 2024.

LKV wage support for older employees discontinued

Starting 1 January 2026, the annual compensation paid to employers under the current Employment Cost Compensation program (*loonkostenvoordeel, LKV*) to subsidize wages paid to employees older than 56 years of age would be discontinued.

Currently, under the LKV program an annual compensation is paid towards employers' wage expenses related to the employment of the following categories of employees:

- employees 56 years of age or older;
- employees with an occupational disability being reemployed for the first time; and
- employees eligible for protected employment placements as described in the so-called Jobs Agreement (*Banenafspraak*), which is an agreement between government and employers to provide additional jobs for individuals with an illness or disability that prevents them from earning the minimum wage independently.

Eligibility conditions for each of the above employee categories can be found on the Employment Insurance Agency's (*Uitkeringsgerechtigde Volledig Werklozen, UVW*) website.

Low-income benefits (LIV) to be abolished

The low-income benefit (*lage-inkomensvoordeel, LIV*) is an annual allowance paid to employers with low wage employees. As of 1 January 2025, employers receiving LIV for their employees who are covered by the LIV scheme, i.e., employees who work at least 1,248 hours per year, at an average hourly wage of 100% to 125% of the statutory minimum wage, would no longer receive these benefits.

Resources

2024 Budget Memorandum, the 2024 National Budget, the 2024 Tax Plan and all associated documents presented to the House of Representatives.

United Arab Emirates

DIFC proposed amendments to require contributions to Qualifying Schemes for GCC employees

Published 20 September 2023

On 31 August 2023, in a press release, the Dubai International Financial Center (DIFC) announced proposed amendments to select legislation, that in particular includes proposed amendments to Part 10 of the DIFC Employment Law No. 2 of 2019.

The proposed Employment Law amendments would require DIFC employers of eligible Gulf Cooperation Council (GCC) country nationals to make contributions into a Qualifying Scheme, in addition to the mandatory contributions that are currently payable to the United Arab Emirates' General Pension and Social Security Authority (GPSSA).

According to the press release, this requirement, would in effect require DIFC employers of eligible CGG national employees to pay the difference between what would have been payable into a Qualifying Scheme had the employee not been a GCC national, and what is being paid to the GPSSA.

Additionally, the DIFC Employment Law would be amended to address situations where a Qualifying Scheme is prohibited from accepting contributions due to sanctions.

Qualifying Scheme comprises DIFC Employee Workplace Savings Plan (DEWS) and/or Alternative Qualifying Scheme (AQS) i.e., approved by DIFC Authority (DIFCA). Since 1 February 2020, DIFC employers are required to make contributions into the DEWS and/or AQS for their foreign national employees. This requirement replaced the statutory end of service gratuity regime.

United Arab Emirates (cont'd)

Government adopts new private sector end-of-service benefit system

Published 10 September 2023

On 4 September 2023, the government adopted a plan for a new voluntary private sector end-of-service benefit system.

The new system would comprise savings and investment funds that would operate under the governance of the Securities and Commodities Authority and the Ministry of Human Resources and Emiratization (MOHRE).

The new system would exist in parallel, and as an alternative to the existing gratuity schemes, under which employees with at least one year of continuous service for an employer are entitled to a lumpsum benefit at the end of their service.

However, in contrast with the existing gratuity scheme, the new vehicle is flexible and enables employees to actively invest their end-of-service savings across a range of investment options.

Under the new system, participating employers would make monthly contributions to a selected fund and would no longer be required to pay and end-of-service gratuity to their employees.

Under the existing mandatory gratuity scheme the end-of service benefit amount depends on the employee's years of service and basic salary. Under the new system, participating employees would at the end of their service, receive their accrued savings and related returns on investments, and those who choose to invest their end-of-service benefits in the fund would be offered three investment options, namely:

- A risk-free investment that maintains capital;
- A risk-based investment whereby risks could vary from low, to medium, to high; and
- A Sharia-compliant investment option.

Details of the new retirement savings system, such as the date of entry into effect or whether employees would also be able to make contributions on top of their employer's contributions, remain to be announced.

Currently, aside from the pension scheme for Gulf Cooperation Council (GCC) national employees and the Dubai International Financial Centre (DIFC) Employee Workplace Savings Scheme, there are no comparable schemes in the UAE to the newly introduced system.

United Kingdom

Flexible Working Bill receives Royal Assent

Published 22 September 2023

On 20 July 2023, the Employment Relations (Flexible Working) Bill 2023 received Royal Assent.

According to a press release of the Department for Business and Trade that was published on 20 July 2023, the provisions of the Employment Relations (Flexible Working) Act 2023 and secondary legislation are expected to come into effect approximately one year after Royal Assent in order to provide employers enough time to prepare for the changes.

Current flexible work provisions

Employees are currently entitled to submit one request per year for flexible working arrangements (i.e., in terms of hours worked, schedule and location of work) provided they have a history of 26 weeks of service for their employer. As part of their request, employees must spell out what impact the employer's approval would have, and how the employer might mitigate the impact of their flexible working request.

The employer is only required to consider the request and may refuse to grant the employee's request but must respond within three months. Once approved, the flexible arrangement agreed upon becomes permanent.

An employee's flexible working request must be reasonably dealt with by the employer, but may be refused on one or more of eight statutory grounds, namely:

- the burden of additional costs,
- detrimental effect on ability to meet customer demand,
- inability to re-organize work among existing staff,
- inability to recruit additional staff,
- detrimental impact on quality,
- detrimental impact on performance,
- insufficiency of work during the periods the employee proposes to work, and
- planned structural changes.

Additionally, once a request is refused based on the above eight statutory grounds, employees do not have a legal right to appeal the employer's decision.

Key provisions of the Act

The provisions of the Flexible Working Act 2023 amend Part 8B of the Employment Rights Act 1996 to modify certain requirements pertaining to employees' flexible working requests and their processing requirements by the employer. Key amendments are as follows:

- Employees will be entitled to request flexible working twice over any 12-month period, as opposed to currently once.
- Employers will have two months from the receipt of an employee's request to respond, unless an extension is agreed, as opposed to currently within three months.
- Employers must consult with the employee, prior to refusing a request for flexible working conditions.
- Employee requests will no longer have to include what impact its approval would have on the business, or to explain how the employer could mitigate the impact.

Separately, according to the government's press release of 20 July 2023 employees will have the right to request flexible working arrangements from the first day of an employment contract, as opposed to currently after 26 weeks of service.

New Acas Statutory Code of Practice

The Flexible Working Act will be supported by revisions to the statutory 2014 Code of Practice. The Code of Practice on handling requests for flexible working (draft) is currently being finalized by the Advisory, Conciliation and Arbitration Service (Acas), following public consultations that closed on 6 September 2023.

Acas is an independent public body that works with employers and employees to improve workplace relationships.

Employer actions to consider

The provisions of the Employment Relations (Flexible Working) Act 2023 are scheduled to come into effect during the summer of 2024. In the meantime, employers should already start reviewing their current flexible working policies and processing procedures and consider making any revisions required to be in compliance with the provisions of the Act.