Alliant Global Services

Global Knowledge Center – Legal & Regulatory Updates

April 2024

Contents

Belgium

Employees receiving fertility or medically assisted reproduction treatment entitled to new protections

Published 19 April 2024

Effective 28 April 2024, new legislation introduces protections for employees undergoing fertility or medically assisted reproduction treatment. Such employees are entitled to employment protection, as well as protection against discrimination related to their treatment.

Fertility and medically assisted reproduction treatments typically require time, because they involve multiple examinations and appointments with specialists. This in turn inevitably result in an employee's absence from work, which can affect the organization of work and the deliverables for their employer.

Employee obligations

The Employee must inform their employer by medical certificate to be entitled to employment protection under the new legislation. Each medical certificate provided by the employee triggers two months of protection against involuntary termination of employment and discrimination.

Employee protections

The new Law protects employees undergoing fertility treatment against termination and discrimination. These employee protections are detailed below.

Employment protection

Termination of an employee undergoing fertility or medically assisted reproduction treatment is only possible for reasons unrelated to the employee's treatment. The burden of proof rests on the employer.

An affected employee is entitled to request written justification of their termination.

The duration of employment protection starts once the employer is notified via a medical certificate, and ends two months after the notification.

An employee undergoing a longer treatment may submit monthly medical certificates to extend the duration of protection. Each medical certificate submitted by the employee triggers a two-month employment protection period.

Protection against discrimination

Under the provisions of the forthcoming law, concerned employees would be better protected against discrimination related to fertility treatment or medically assisted reproduction.

Following an absence from work that is related to fertility or reproductive treatment, the employee is entitled to:

- resuming their role, and if this is not possible, being assigned to an equivalent or comparable role;
- any improvements in employment conditions that they could have claimed had they not been absent for receiving treatment; and
- any acquired rights, or ongoing statutory entitlements during their absence from work (e.g., time in service).

The duration of protection against discrimination starts upon notification and lasts two months after each medical certificate.

Sanctions

In the event of violation of either of these two types of employee protections, a penalty in the form of a lump sum compensation equivalent to six months of the employee's gross salary applies to the employer.

Such penalties can be cumulated in cases of multiple violations by the employer.

In case an employee is terminated without sufficient justification, or if the employer's justification relates to the employees absence(s) due to fertility or reproductive treatment, the employer must pay a lumpsum compensation equal to six months of the employee's gross salary, in addition to statutory termination indemnities.

Employer Actions

In light of employees' new employment and anti-discrimination protections during fertility and assisted reproduction treatment periods, and the related sanctions for failure to comply with the requirements of the new law, employers are advised to:

- update relevant internal policies and procedures to account for the new employee protections;
- ensure human resources staff are prepared to track employee notices of fertility assisted reproduction treatment, and to respond to related requests; and
- prepare new or update any related communication materials for management and/or employees.

Employer violations of the new employee protections, entail a lump sum penalty equivalent to six months of the employee's gross salary. Penalties can be cumulated in case of multiple violations and are in addition to statutory termination indemnities.

It is worth noting that the new law does not entitle affected employees to treatment related paid leave, or absences from work. Employer and employee may mutually agree on alternative arrangements during the employee's treatment periods, such as, temporary adjustment to the employee's working time, unpaid leave days or absences from work, or paid leaves.

Underlying legislation

The employee protection measures were introduced by the Law of 24 March amending the laws of 10 May 2007 to combat discrimination between women and men with a view to establishing protection for workers who are absent from work due to fertility treatment or medically assisted reproduction (*Loi du 24 mars 2024 modifiant la loi sur le travail du 16 mars 1971 et la loi du 10 mai 2007 tendant à lutter contre la discrimination entre les femmes et les hommes en vue d'instituer une protection pour les travailleuses et travailleurs qui s'absentent du travail pour un traitement d'infertilité ou pour une procréation médicalement assistée*), *which was published in the Official Journal (le Moniteur belge) on 18 April 2024.*

Canada

A national drug insurance program framework under review by Parliament

Published 17 April 2024

On 16 April 2024, the House of Commons started its second reading of Bill C-64, An Act respecting pharmacare, which provides the general framework for the development of a national drug insurance program – the national universal pharmacare.

Private drug insurance plan sponsors should stay abreast of the proposed changes.

Among its many provisions, Bill C-64:

- spells out principles that the Minister of Health (MOH) would have to observe in implementing universal pharmacare;
- empowers the MOH to pay in relation to the coverage of certain prescription drugs and related products; and
- provides that the Canadian Drug Agency work towards the development of a national formulary, develop a national bulk purchasing strategy, and support the publication of a national strategy on the appropriate use of prescription medications.

The primary objective of the federal government, as indicated in its press release of 29 February 2024, is a universal single-payer coverage for medications and devices related to contraception and diabetes.

Most contraceptive medication and devices would be covered under the proposed program. Diabetes coverage would focus on insulin products and diabetic supplies. Semaglutides – glucagon-like peptide-1 receptor agonist (GLP-1), such as Ozempic are not included.

Once the Bill is approved, the MOH would set up committee of experts to make recommendations and initiate discussions and negotiations on the operation and financing of national, universal, single-payer pharmacare.

Potential impact of the proposed program on private plan sponsors would become clear during the course of implementation-related discussions and negotiations.

Resources

- Backgrounder: Universal Access to Contraception
- Backgrounder: Universal Access to Diabetes Medications, and Diabetes Device Fund for Devices and Supplies
- Final Report of the Advisory Council on the Implementation of National Pharmacare

Canada

Manitoba to extend unpaid long-term disability leave from 17 weeks to 27 weeks

Published 15 April 2024

On 7 March 2024, Manitoba's Bill 9, The Employment Standard Code Amendment Act received its first reading by the Province's Legislative Assembly. The Bill would amend Manitoba's Employment Standards Code to extend the maximum unpaid long-term disability leave for serious injury or illness from currently 17 weeks to up to 27 weeks.

Bill 9 has only gone through its first reading and is subject to three readings and approval by Manitoba's Legislative Assembly before it receives Royal Asset and becomes law the following day.

Bill 9 further provides that if, on the day its corresponding law comes into force, an employee is on leave for serious injury or illness or has given their employer notice prior to the amendment the Employment Standards Code, but has not yet started their leave, then the leave to which they are entitled is increased from 17 to up to 27 weeks.

Long-term disability leave for serious injury or illness is an unpaid leave governed by the provincial Employment Standards Code.

Although employers may choose to provide leave beyond the minimum standards, the proposed amendments to the Employment Standards Code would ensure that employees under Manitoba's jurisdiction are entitled to sufficient unpaid employment-protected leave to receive their full federal employment insurance (EI) long-term disability benefits.

As a reminder, to qualify for EI long-term disability insurance benefits, an employee must be employed by the same employer for a minimum of 90 days.

Background

In 2022, as part of a reform of the federal EI program the government amended the Employment Insurance Act and the Canada Labour Code.

The amendments increased EI long-term disability benefits to 26 (up from previously 15 weeks) and increased the maximum length of unpaid medical leave available to federally regulated employees to 27 (up from previously 17 weeks).

As a result, Manitoba's legislation was no longer aligned with the federal EI entitlements, meaning employees under Manitoba's jurisdiction were not able to access the full long-term disability EI benefits available to them. Bill 9 would address this discrepancy.

Colombia

Reduction in working time without a reduction in pay introduced by law

Published 4 April 2024

Effective 15 July 2024, all employers must ensure that their employees' work hours do not exceed 46 hours per week. Currently statutory working hours are limited to 47 hours per week.

This is the second phase of a gradual reduction in working time from 48 hours in 2022 to a total of 42 hours per week by 2026.

Exceptions may apply if the employee's tasks are especially unhealthy or dangerous, and the government orders the reduction of the working day; or in the case of working adolescence over the 17 years of age who may only work a maximum of eight hours a day, up to 40 hours a week, and until 8:00 P.M.

Underlying legislation

The reduction in working time was introduced by the Law 2101, which gradually reduces weekly working days without a reduction in workers' salaries and other provisions (*Ley 2101 de 2021 por medio de la cual se reduce la jornada laboral semanal de manera gradual, sin disminuir el salario de los trabajadores y se dictan otras disposiciones*), which was published in the Official Journal (*Diario Oficial*) on 15 July 2021.

Phased implementation of the reduction in working time

The objective of this law is to gradually reduce employees' weekly working hours from currently 48 hours per week (in 2022) to 42 hours per week (in 2026), without reducing their pay or affecting other acquired entitlements and employment guarantees. The implementation is phased over four years as follows:

- Effective 15 July 2023, the ordinary workweek was reduced from 48 to 47 hours per week.
- Effective 15 July 2024, the ordinary workweek will be further reduced by one hour to 46 hours per week.
- Effective 15 July 2025, the ordinary workweek will be reduced by two hours to 44 hours per week.
- Effective 15 July 2026, the workweek will be definitively regulated at 42 hours per week.

The above weekly hours may be distributed, by mutual agreement between employer and employee over 5 or 6 days per week, always guaranteeing one day off.

Key provisions

Key provisions of Law 2101 of 2021 include:

- Employee entitlement will not be impacted by the reduction in the maximum statutory working time per week. In particular, employee pay is not to be reduced.

- The maximum statutory weekly working time can be spread over five or six days a week.
- The employer and the employee may mutually agree on a temporary or permanent basis, to successive work shifts that do not exceed six hours a day and a total of 36 hours per week. Without the agreed schedule triggering the payment of a night surcharge, or additional work for the employee.
- The employer and the employee may mutually agree on flexible working hours of a minimum of four hours per day and a maximum of nine hours per day (previously 10 hours) without payment of overtime, provided the total number of hours does not exceed 42 per week.

An ordinary employer may under no circumstances schedule two work shifts on the same day for an employee. Exceptions only apply to management.

Employer Actions

Effective 15 July 2024, all employers must ensure that their employees' work hours do not exceed 46 hours per week, which may be distributed, by mutual agreement over 5 or 6 days per week, always ensuring that the employee has at least one rest day off.

Employee entitlements may not be affected by the reduction in the maximum statutory working time per week. Most importantly, employee pay should not be reduced.

This is the second phase of a gradual reduction of the workweek from 48 to 42 hours that is being implemented over a period of 4 years.

Considering that the changes are being implemented gradually, employers should be prepared for this second phase and should have already planned to smooth any anticipated impact on business practice and continuity.

In certain cases, such as mutually agreed flexible work, employment agreements may need to be revised.

Employers would be well advised to prepare employee communication materials announcing the forthcoming reduction in work hours.

Denmark

Additional 13 weeks of leave for each parent in all cases of multiple births enters into force

Published 7 April 2024

Effective 1 May 2024, multiple birth or multiple adoption parents are each entitled to 13 additional weeks of leave. L 96 Bill to amend the Act on Maternity Leave and Maternity Benefits (*L 96 Forslag til lov om ændring af barselsloven*) was adopted by Parliament on 19 March 2024.

The amendments apply to parents who have two or more children born or adopted on the same day, on or after 1 May 2024.

The amended provisions of the Act on Maternity Leave and Maternity Benefits provide that that parents who have two or more children born from the same birth or simultaneously adopted on or after 1 May 2024, will be entitled to 13 additional weeks of leave each, 26 weeks in total, with social benefits.

Previously, similar leave and related social benefits already existed for parents who had three or more children simultaneously, but not for two children.

Key amendments

The main amendments are as follows:

- The leave and related social allowance entitlement apply to all parents, including employees, self-employed individuals, and unemployed individuals.
- The new rules apply to children born or adopted, on or after 1 May 2024.
- The additional leave entitlement will be of 13 weeks per parent (including adopting parents) with the right to maternity allowance during the leave. Maternity allowance, like sickness benefits, is calculated based on earnings received during the last three months worked. The maximum weekly amount of the maternity allowance is DKK 4,695 (as of 1 January 2024). The benefit is taxable.
- The additional weeks are not transferable between the parents.
- The additional leave must be taken within one year of the birth or reception of adopted children.
- Single parents of twins (or multiple births or adoption) are entitled to 13 additional weeks of leave, which must be taken within a year.
- Single parents have the opportunity to apply for an extra 13 weeks of leave to be used by a specified close family member, bringing their total entitlement to 26 weeks.
- A legal parent can transfer the extra 13 weeks of leave and related social allowance entitlement to a social parent (*social forælder*), but not to another legal parent. A social parent is an individual who:
  - Is married to the legal parent of a child;
  - Lives with the legal parent;

  - Is a known donor with a parent-like relationship with the child; or
  - Is married to and/or lives with the known donor who has a parental-like relationship with the child.
- In the case of twins, if one child is stillborn, according to existing legislation both parents would be entitled to 26 weeks of bereavement leave in connection with the death of one child. In this case, the parents will not be entitled to the additional 13 weeks of leave for twins.
- If one of the children dies after birth, the legal parents would retain the extra 13 weeks of leave entitlement, irrespective of the fact that both parents will also be entitled to 26 weeks of bereavement leave in connection with the death of one of the children.

The above rules also apply to parents who have three or more children at the same time.

Previously, parents of triplets or quadruplets born on or after 1 January 2023 were already entitled to 26 weeks of extra leave with social benefits. The weeks of leave could be shared between the parents and had to be taken within 18 months of the birth.

For parents of triplets and quadruplets, born on or after 1 May 2024, the new leave provisions for parents of twins replace the previously leave provisions applicable to triplets or quadruplets born on or after 1 January 2023.

Employer Actions

New leave rules apply to parents of two or more simultaneous births or adoptions occurring on or after 1 May 2024.

Parents who have two or more children born from the same birth or simultaneously adopted, will be entitled to 13 additional weeks of leave each, 26 weeks in total, with social benefits. This compares to previously three or more children.

Previously, the additional weeks of leave could be shared between the parents and had to be taken within 18 months of the birth. Now, for births or adoptions occurring on or after 1 May 2024, the additional weeks of leave are not transferable between the parents, and they must be taken within one year of the birth or reception of adopted children.

However, leave and related social allowance entitlement can now be transferred to a social parent.

Employers must revise their leave policies, procedures, and practices to reflect the new amendments, as well as all related employee communication materials.

Employers frequently top-up social benefits paid to employees during leave as provided for by collective agreement and/or individual employment agreements. Entitlement to employer top-up payments typically requires a minimum time in service, e.g., a year-and-a-half to two years.

Employers bound by agreement or who wish to maintain their employees pay during the new leave entitlements should assess potential expenses and include expected expenses in their contingency budgets.

Underlying legislation

The amendments were introduced by the Act amending the Maternity Act (*Lov om ændring af barselsloven*), which was published in the Official Journal (*Lovtidende*) on 2 April 2024.

Denmark

Ministry of Employment issues new Guidance on the Discrimination Act

Published 26 April 2024

On 25 April 2024, the Ministry of Employment, issued a new Guidance on the Discrimination Act (*Vejledning om Forskelsbehandlingsloven*), which was last revised in 2019.

The objective of the Guidance is to support employers and employees in understanding the provisions and the spirit of the Discrimination Act (*Forskelsbehandlingsloven*).

The 2024 Guidance has been updated with the latest rulings of Danish Courts and of the European Court of Justice (ECJ) to clarify how the Discrimination Act's provisions are to be understood and interpreted.

In addition, the 2024 Guidance includes new sections on two legislative amendments to the Discrimination Act that were made in 2021 and 2022. Specifically:

- in 2021, Parliament adopted strengthened protections for LGBTI individuals banning discrimination on the basis of gender identity, gender expression, or gender characteristics; and
- in 2022, employers were prohibited from screening job applicants based on age.
- The 2024 Guidance replaces the previous guidance on the Discrimination Act from 2019.

Employer actions to consider

Employers are advised to ensure their human resources departments are made aware of the newly issued Guidance on the Discrimination Act.

France

Accrual of annual leave during sick leave entails new employer obligations

Published 24 April 2024

On 10 April 2024, Parliament adopted proposed legislation that allows employees on sick leave of non-occupational origin to accrue employer-paid annual leave. This was not previously the case despite European legislation.

The new legislation, Law n° 2024-364 of 22 April 2024, aligns French legislation with European legislation in various areas, including with respect to paid annual leave during sick leave.

The key provisions of the Law comprise:

- accrual of employer-paid leave during any sick leave period, whether the sick leave is work-related or not;
- a carryover period for employer-paid annual leave accrued before or during a period of sick leave;
- new information obligations for the employer.

The Law was published in the Official Journal (*Journal officiel de la République française, JORF*) on 23 April 2024.

The new annual leave related provisions of the Law are retroactively applicable.

Abolition of leave accrual time limit during occupational sick leave

Previously, the Labor Code only entitle employees on leave for occupational illness or disease to accrue employer-paid annual leave, and this within a limit of one uninterrupted year of the sick leave.

This limitation is abolished by the new Law, Employees are now entitled to accrue employer-paid annual leave for the entire time not worked.

Entitlement to annual leave accrual during ordinary sick leave

Previously, an employee on non-occupational sick leave did not accrue employer-paid annual leave.

Under the provisions of the new Law all sick leave will be considered as time worked for the purpose of paid leave accrual, and this, without any sick leave duration limit.

Under the new provisions, employees on non-occupational sick leave accrue the equivalent of two workdays of employer-paid leave per month of sick leave, up to 24 workdays (with some exceptions) per reference period, which is typically from 1 June through 31 May of the following year. This rate compares to 2.5 workdays per month accrued when the employee is actually working. In other words, employer

payments for annual leave accrued during an employee's sick leave will be equal to 80% of their pay, instead of 100% for annual leave accrued when they are actually working.

Employer must inform the employee of their annual leave pay entitlement when the leave is accrued during sick leave. Failure to inform or delays in informing the employee who was on sick leave only postpone the start date of the paid leave period accrued during sick leave.

Carryover rules of unused annual leave accrued during sick leave

The new Law allows unused annual leave accrued during periods of sick leave to be carried over for 15 months. At the end of the 15 months, entitlement to any unused balance of annual leave accrued during the employee's sick leave is lost.

Special employer-favorable provisions apply in cases where the employee's sick leave exceeds one year.

This 15-month carryover period entails an employer obligation to inform a concerned employee of their leave entitlement within one month of their return to work, i.e., days of leave available to the employee, and the date until which these days can be taken.

The 15-month carryover period starts on the date the employer informs the employee.

Retroactive application of the new rules

The new annual leave accrual and carryover entitlements during an employee's sick leave must be applied retroactively as from 1 December 2009. The affected employees (i.e., those still employed) have two years starting from 23 April 2024 to claim their accrued annual leaves since 2009.

Individuals whose employment agreement ended prior to the publication of the Law in the JORF on 23 April 2024, are entitled to annual leave accrued during periods of sick leave over the three years prior to the publication of the Law.

Employer Actions

Effective 24 April 2024, new legislation amends the Labor Code to introduce:

- accrual of employer-paid leave during any sick leave period, whether the sick leave is work-related or not;
- a 15-month carryover period for employer-paid annual leave accrued before or during a period of sick leave, after which any unused balances are lost; and
- new information obligations for the employer.

Specifically, employers must:

- inform concerned employees of their annual leave pay entitlement that is accrued during a period of sick leave; and
- inform the employee of their annual leave pay entitlement pertaining to leave accrued during sick leave.

Failure to inform or delays in informing concerned employees only postpones the start date of the employee's 15-month deferral period for all paid leave period accrued during sick leave.

The amendments require employers to apply the new provisions of the retroactively as from 1 December 2009. Affected employees (i.e., those still employed) have two years starting from 23 April 2024 to claim any annual leaves accrued during periods of sick leave since 2009.

Individuals whose employment agreement ended prior to 23 April 2024, are entitled to annual leave accrued during periods of sick leave over the three years that precede the publication of the Law.

Employers are advised to:

- assess and incorporate additional expenses resulting from the new employee entitlement to the annual budget estimates;
- update the leave policies, procedures, and practices to reflect the new provisions of the law with respect to accrual of annual leaves during periods of sick leave;
- develop employee communication materials to inform their employees of their new annual leave entitlements. during periods of sick leave; and
- ensure that their payroll departments or service providers, make the necessary changes to account for the new payment rules applicable to annual leaves accrued during periods of sick leave, i.e., 80% of a concerned employees pay (instead of ordinarily 100%).

Finally, Collective bargaining agreements may provide for better conditions in terms of accrual, carryover and payment of annual leave entitlements during sick leave.

Underlying legislation

The amendments were introduced by Law n° 2024-364 of 22 April 2024 comprising various provisions for adaptation to European Union law in matters of economy, finance, ecological transition, criminal law, social law, and agricultural matters (*Loi n° 2024-364 du 22 avril 2024 portant diverses dispositions d'adaptation au droit de l'Union européenne en matière d'économie, de finances, de transition écologique, de droit pénal, de droit social et en matière agricole*). The Law was published in the Official Journal (*Journal officiel de la République française, JORF*) on 23 April 2024.

The new provisions follow recent ECJ rulings

The annual leave accrual during sick leave provisions of Law n° 2024-364 of 22 April 2024 follow three rulings of the European Court of Justice (ECJ) of 13 September 2023, all of which related to paid annual leave entitlements. In those rulings, the ECJ set aside the provisions of the French Labor Code, and directly applied European Union (EU) legislation. The rulings brought paid annual leave entitlements into conformity with EU legislation.

The legislation approved by Parliament follows the ECJ rulings and aligns French law with European regulations in various areas, including with respect to paid annual leave during sick leave,

Specifically, based on these recent rulings:

- Sick or injured employees will be entitled to paid annual leave accrual during their sick leave, even if this absence is unrelated to a work accident or an occupational illness;
- In the event of a work accident or occupational disease, the calculation of paid leave entitlements will no longer be limited to the first year of sick leave;
- The statute of limitations for annual leave back payment claims only begins to run when the employer has placed their employee in a position that allows them to effectively exercise their entitlement in good time.

Furthermore, Article 7 of the EU Directive 2003/88/CE of 4 November 2003 provides that employees are entitled to four weeks of employer-paid annual leave each year. The Directive is silent on annual leave accrual rights during leaves of absence.

In contrast, prior to Law n° 2024-364 of 22 April 2024 Article L 3141-3 and Article L 3141-5 of the Labor Code, provided that employer-paid annual leave was not accrued during an employee's sick leave, unless the sick leave is due to an occupational illness or accident, in which case annual leave accrual is limited to the employee's first year of sick leave.

In both Appeal No. 22-17.340 and Appeal No. 22-17.638, the Supreme Court ruled that employees suffering from an illness or an accident, of any nature whatsoever (i.e., occupational or non-occupational) are entitled to paid leave accrued over a period that includes the time during which they could not work, i.e., during their sick leave.

For these rulings, the Supreme Court, invoked Article 31, Section 2 of the Charter of Fundamental Rights of the European Union on the right to rest, to reject the provisions of French Labor Code which were not in conformity with EU legislation.

According to Article L. 3245-1 of the Labor Code at the time of the ECJ rulings, the limitation period for claims for payment or recovery of pay was three years, starting from the day on which the individual exercising an entitlement knew or should have known the facts allowing them to exercise their right.

In Appeal No. 22-17.340 the Supreme Court's ruling determined that the three-year statute of limitations for claiming annual leave back payments, starts once the period over which the leaves could have been taken ends, provided the employer has taken the measures required to allow the employee to effectively exercise their paid leave entitlement.

France

Proposed menstrual leave, remote work entitlement for dysmenorrhea, and miscarriage leave rejected by Parliament

Published 16 April 2024

On 15 February 2024, the Proposed law aimed at improving and guaranteeing the health and wellbeing of women at work (*Proposition de loi visant à améliorer et garantir la santé et le bien-être des femmes au travail*) was rejected by the Parliament.

The proposal would have introduced paid menstrual leave and remote work entitlements for women suffering from dysmenorrhea or endometriosis, five days of leave for women who experienced a miscarriage, and five days for their spouse, cohabiting partner or partner bound by a civil solidarity pact (*pacte civil de solidarité - PACS*).

Menstrual leave

The Proposed Law would have introduced a sick leave for women suffering from dysmenorrhea or endometriosis. A daily allowance of 100% of the employee's base daily salary up to a maximum limit (ceiling amount unspecified) would have been paid by social security, from day one of the leave. The duration of the leave would have been one to two days per month as prescribed by a medical certificate provided by a general practitioner or a midwife.

Remote work for dysmenorrhea

The Proposed Law would have allowed women suffering from dysmenorrhea, whose work is compatible with working remotely to work from home.

The rationale for offering this flexibility was that menstrual pain discomfort may prevent a woman from going to work, without necessarily disabling the employee to the point of being incapable to work.

The same article of the Proposed Law also specified that the duration of remote work would have been one or two days per month without a medical certificate, provided the employee informed their manager.

Miscarriage leave

The Proposed Law would have amended Labor Code Articles L3142-1 through L3142-5 on Leave for Family Events, to introduce a new employer-paid leave for women having experienced a miscarriage.

The leave would have required a medical certificate issued by a general practitioner, a gynecologist-obstetrician, or a midwife.

The duration of a miscarriage leave would have been up to a maximum of five working days.

The proposed law also provided for five working days of leave for a spouse, a cohabiting partner or a partner bound by a civil solidarity pact (PACS) of women having experienced a miscarriage.

Rationale for rejection

During Senate debates, objections against the Proposed Law highlighted concerns regarding its impact on social security, businesses, and workforce dynamics.

It was argued that granting two days of leave per month due to menstrual pain could impose significant costs on the social security system and reduce productivity, particularly in industries reliant on female employees.

Concerns arose about potential discrimination in hiring, breach of medical confidentiality, and perpetuation of gender inequalities in professional integration and career advancement.

Furthermore, logistical challenges in implementing such a measure, uncertainties around its financial feasibility, and the need for a more targeted approach focusing on specific medical conditions like endometriosis were emphasized.

It was suggested that instead of normalizing absenteeism due to menstrual pain, the emphasis should be on comprehensive medical treatment and workplace accommodations without compromising privacy or perpetuating inequalities among women in different professions.

France

Employer-paid tax-exempt flat-rate mileage allowance for employees' use of personal vehicle unchanged

Published 10 April 2024

On 9 April 2024, in a press release the government confirmed that the flat-rate tax-exempt mileage allowance (*barèmes kilométriques*) for employees' use of various personal vehicles for commuting to work and business purposes (including business travel) paid by the employer in 2023 (i.e., pertaining to 2024 tax year) remain unchanged, despite inflation. These mileage allowances were increased by 10% in 2022, then by 5.4% in 2023.

Payments by the employer are possible in cases where an employee uses their personal vehicle for commuting or for business purposes. For this, employers can use the annually adjusted flat-rate mileage allowance set by the tax administration.

Employer flat-rate reimbursements up to the government-set allowance amounts are exempt from income tax and from both employer and employee social contributions, provided that actual expenses incurred by an employee can be justified as being professional in nature.

Collective bargaining agreements (CBA) may specify flat-rate allowance limits that differ from those set by tax authorities.

For purposes of flat-rate mileage allowance the General Directorate of Public Finance distinguishes between three categories of vehicles, namely, automobiles, motorcycles, and motorized two-wheelers other than motorcycles. The applicable tax-exempt allowance limits are detailed below.

Flat-rate mileage allowance for automobiles

The flat-rate allowance applicable to each case, is determined based on three distance-travelled bands and five vehicle categories which depend on the vehicles horsepower (HP).

The table below presents the applicable flat-rate allowances effective 8 April 2024, where the letter 'd' stands for the distance travelled annually in kilometers (km) by the employee for commuting or for business purposes. A 20% increase in the tax-exempt allowance applies to any electric vehicle.

	DISTANCE TRAVELLED ANNUALLY		
VEHICLE HP	**UP TO 5,000 KM**	**5,001 TO 20,000 KM**	**> 20,000 KM**
3 HP OR LESS	d x 0.529	(d x (0.316) + 1065	d x 0.370
4 HP	d x 0.606	(d x 0.340) + 1330	d x 0.407
5 HP	d x 0.636	(d x 0.357) + 1395	d x 0.427
6 HP	d x 0.665	(d x 0.374) + 1457	d x 0.447

	DISTANCE TRAVELLED ANNUALLY		
VEHICLE HP	**UP TO 5,000 KM**	**5,001 TO 20,000 KM**	**> 20,000 KM**
7 HP OR HIGHER	d x 0.697	(d x 0.394) + 1515	d x 0.470

Flat-rate allowance for two-wheeled vehicles

The Traffic Code recognizes two types of two-wheeled vehicles, namely:

- Motorcycles, and
- Scooters or mopeds

The flat-rate allowance applicable to each depends on their engine capacity, and on the distance annually travelled for commuting or for business purposes. These are detailed in the sections below.

Note that in all cases a 20% increase in the allowance applies for electric vehicles.

Flat-rate mileage allowance for motorcycles

The flat-rate allowance applicable to each case. is determined based on three distance-travelled bands and three categories of motorcycles depending on their HP.

The table below presents the applicable flat-rate allowances for the use of private motorcycles for commuting or business purposes, effective 8 April 2024.

MOTORCYCLE'S HP	UP TO 3,000 KM	3,001 TO 6,000 KM	> 6,000 KM
1 OR 2 HP	d × 0.395	(d × 0.099) + 891	d × 0.248
3.4. AND 5 HP	d × 0.468	(d × 0.082) + 1158	d × 0.275
> 5 HP	d × 0.606	(d × 0.079) + 183	d × 0.343

Flat-rate mileage allowance for scooters or mopeds

The following flat-rate mileage allowance applies for scooters or mopeds (*cyclomoteurs*) with an engine that has a cylinder capacity (cc) of 50 cubic centimeters or less, provided it is an internal combustion engine. For other engines, the flat-rate mileage allowances in the table below apply if their maximum net power does not exceed four kilowatts (kw).

TYPE OF TWO-WHEELER	**UP TO 3,000 KM**	**3,001 TO 6,000 KM**	**> 6,000 KM**
SCOOTER UP TO 50	d × 0.315	(d × 0.079) + 711	d × 0.198

Expenses included by the flat-rate mileage allowance

Flat-rate allowances paid by employers for the use of their personal vehicle for commuting to work or for business purposes are deemed to cover an employee's expenses related to:

- Vehicle depreciation,
- Protection gear. such as helmets,
- Vehicle repair and maintenance,

- Tires or wheels, and
- Vehicle insurance premiums.

The following expenses may also be included:

- Vehicle loan interest,
- toll fees, and
- parking fees.

Employer actions to consider

Employers reimbursing employees for the use of their private vehicle for commuting or for business purposes must be able to verify the professional nature of these expenses. Reimbursements to employees up to the flat-rate allowance set by tax authorities are only income tax and social contribution exempt if they are justifiable as business-related expenses.

Employers are reminded that they must consult applicable CBAs, as these are periodically renegotiated and may specify flat-rate allowance limits that differ from those set by tax authorities.

Underlying legislation

The unchanged applicable tax-exempt mileage allowance limits were last set by the Decree of 27 March 2023 setting the flat-rate allowance for the assessment of travel expenses relating to the use of a vehicle by workers and employees opting for the tax-deductibility of actual expenses (*Arrêté du 27 mars 2023 fixant le barème forfaitaire permettant l'évaluation des frais de déplacement relatifs à l'utilisation d'un véhicule par les bénéficiaires de traitements et salaires optant pour le régime des frais réels déductibles*). which was published in the Official Journal (*Journal officiel de la République française. JORF*) on 7 April 2023.

Useful resources

- Ministry of Finance: Professional Expenses, Taxes 2024 (*Frais professionnels, Impôts 2024*)
- Ministry of Finance: 2023 Income declaration, Practical brochure 2024 (*Déclaration des revenus 2023 Brochure pratique 2024*)

France

Tax-exempt flat-rate mileage allowance for employees' use of personal vehicle unchanged

Published 10 April 2024

On 9 April 2024, in a press release the government confirmed that the flat-rate tax-exempt mileage allowance (*barèmes kilométriques*) for employees' use of various personal vehicles for commuting to work and business purposes (including business travel) paid by the employer in 2023 (i.e., pertaining to 2024 tax year) remain unchanged, despite inflation. These mileage allowances were increased by 10% in 2022, then by 5.4% in 2023.

Payments by the employer are possible in cases where an employee uses their personal vehicle for commuting or for business purposes. For this, employers can use the annually adjusted flat-rate mileage allowance set by the tax administration.

Employer flat-rate reimbursements up to the government-set allowance amounts are exempt from income tax and from both employer and employee social contributions, provided that actual expenses incurred by an employee can be justified as being professional in nature.

Collective bargaining agreements (CBA) may specify flat-rate allowance limits that differ from those set by tax authorities.

For purposes of flat-rate mileage allowance the General Directorate of Public Finance distinguishes between three categories of vehicles, namely, automobiles, motorcycles, and motorized two-wheelers other than motorcycles. The applicable tax-exempt allowance limits are detailed below.

Flat-rate mileage allowance for automobiles

The flat-rate allowance applicable to each case, is determined based on three distance-travelled bands and five vehicle categories which depend on the vehicles horsepower (HP).

The table below presents the applicable flat-rate allowances effective 8 April 2024, where the letter 'd' stands for the distance travelled annually in kilometers (km) by the employee for commuting or for business purposes. A 20% increase in the tax-exempt allowance applies to any electric vehicle.

	DISTANCE TRAVELLED ANNUALLY		
VEHICLE HP	**UP TO 5,000 KM**	**5,001 TO 20,000 KM**	**> 20,000 KM**
3 HP OR LESS	d x 0.529	(d x (0.316) + 1065	d x 0.370
4 HP	d x 0.606	(d x 0.340) + 1330	d x 0.407
5 HP	d x 0.636	(d x 0.357) + 1395	d x 0.427
6 HP	d x 0.665	(d x 0.374) + 1457	d x 0.447

	DISTANCE TRAVELLED ANNUALLY		
VEHICLE HP	**UP TO 5,000 KM**	**5,001 TO 20,000 KM**	**> 20,000 KM**
7 HP OR HIGHER	d x 0.697	(d x 0.394) + 1515	d x 0.470

Flat-rate allowance for two-wheeled vehicles

The Traffic Code recognizes two types of two-wheeled vehicles, namely:

- Motorcycles, and
- Scooters or mopeds

The flat-rate allowance applicable to each depends on their engine capacity, and on the distance annually travelled for commuting or for business purposes. These are detailed in the sections below.

Note that in all cases a 20% increase in the allowance applies for electric vehicles.

Flat-rate mileage allowance for motorcycles

The flat-rate allowance applicable to each case. is determined based on three distance-travelled bands and three categories of motorcycles depending on their HP.

The table below presents the applicable flat-rate allowances for the use of private motorcycles for commuting or business purposes, effective 8 April 2024.

MOTORCYCLE'S HP	UP TO 3,000 KM	3,001 TO 6,000 KM	> 6,000 KM
1 OR 2 HP	d × 0.395	(d × 0.099) + 891	d × 0.248
3.4. AND 5 HP	d × 0.468	(d × 0.082) + 1158	d × 0.275
> 5 HP	d × 0.606	(d × 0.079) + 183	d × 0.343

Flat-rate mileage allowance for scooters or mopeds

The following flat-rate mileage allowance applies for scooters or mopeds (*cyclomoteurs*) with an engine that has a cylinder capacity (cc) of 50 cubic centimeters or less, provided it is an internal combustion engine. For other engines, the flat-rate mileage allowances in the table below apply if their maximum net power does not exceed four kilowatts (kw).

TYPE OF TWO-WHEELER	UP TO 3,000 KM	3,001 TO 6,000 KM	> 6,000 KM
SCOOTER UP TO 50	d × 0.315	(d × 0.079) + 711	d × 0.198

Expenses included by the flat-rate mileage allowance

Flat-rate allowances paid by employers for the use of their personal vehicle for commuting to work or for business purposes are deemed to cover an employee's expenses related to:

- Vehicle depreciation.
- Protection gear. such as helmets.
- Vehicle repair and maintenance.

- Tires or wheels.
- Vehicle insurance premiums.

The following expenses may also be included:

- Vehicle loan interest,
- toll fees, and
- parking fees.

Employer actions to consider

Employers reimbursing employees for the use of their private vehicle for commuting or business purposes must be able to verify the professional nature of these expenses. Reimbursements to employees up to the flat-rate allowance set by tax authorities are only income tax and social contribution exempt if they are justifiable as business-related expenses.

Employers are reminded that they must consult applicable CBAs, as these are periodically renegotiated and may specify flat-rate allowance limits that differ from those set by tax authorities.

Underlying legislation

The unchanged applicable tax-exempt mileage allowance limits were last set by the Decree of 27 March 2023 setting the flat-rate allowance for the assessment of travel expenses relating to the use of a vehicle by workers and employees who opt for the tax-deductibility of actual expenses (*Arrêté du 27 mars 2023 fixant le barème forfaitaire permettant l'évaluation des frais de déplacement relatifs à l'utilisation d'un véhicule par les bénéficiaires de traitements et salaires optant pour le régime des frais réels déductibles*). which was published in the Official Journal (*Journal officiel de la République française. JORF*) on 7 April 2023.

Useful resources

- Ministry of Finance: Professional Expenses, Taxes 2024 (*Frais professionnels, Impôts 2024*)
- Ministry of Finance: 2023 Income declaration, Practical brochure 2024 (*Déclaration des revenus 2023 Brochure pratique 2024*)

South Africa

Two-pot retirement system reforms pending Presidential Assent

Published 15 April 2024

On 27 March 2024, the government's proposed two-pot pension fund system reforms articulated in the Revenue Laws Amendment Bill B39-2023, was passed by the National Assembly.

If passed by the Select Committee on Finance and subsequently signed by the President, the reforms are expected to come into effect on 1 September.

According to its provisions, the Bill would come into effect upon publication of the corresponding Act in the Official Gazette.

The proposed two-pot retirement system

Starting from the reforms' effective date, the proposed two-pot retirement system would split retirement contributions into one-third paid into a savings plan, i.e., "the savings pot", and two-thirds paid towards a retirement plan, i.e., the "retirement pot".

The proposed two-pot system would also apply to all defined benefit (DB) funds. Although, in the case of DB plans, the allocation of contributions to the two pots would be based on a member's pensionable service (Article 1 (zF) of the Bill).

The Bill also provides for retirement balances accrued up to the effective date of the reforms to be held in a separate "vested pot" and would not be subject to compulsory preservation when changing jobs. However, access to the vested pot would only be allowed upon retirement or resignation of the member.

Therefore, those who currently have retirement savings would have three separate pots, i.e., a vested pot, a savings pot, and a retirement pot.

According to the government's press release of 4 December 2023, upon a member's death, the benefits paid out will be based on the balances of the three pots, taking into account any service adjustments already made. There will be no requirement to annuitize the balance from the retirement pot.

The objective of the proposed system is to encourage retirement savings. The two-pot system would more readily allow for access to retirement funds for unforeseeable emergencies only. Currently, to access retirement savings in case of emergencies, employees often have no option but to resign from their job.

Under the proposal, the savings pot could only be accessed as a last resort prior to retirement. It is not intended as a substitute to ordinary savings for unexpected short-term needs. Upon resignation, members would be entitled to their full actuarial interest, which would include the vested pot and the savings pot balances. Finally, the retirement pot would only be accessible upon retirement or death of the member.

Anticipated reform-related expenses

The adaptation of existing retirement funds' rules to the requirements of the proposed two-pot system is expected to translate into higher expenses for retirement funds. Additionally, allowing for withdrawals in case of emergencies could translate into liquidity risks upon implementation for many funds, even if vested rights remain inaccessible.

Taxation of withdrawals

The two-pot system would allow members to withdraw from their savings pot(s) once a year provided a minimum balance of ZAR 2,000 has been reached. Savings would only start to accumulate from the currently stipulated effective date of 1 September 2024.

According to the approved Bill, a portion of members' vested pot balance may be transferred to the savings pot to serve as "seed capital". This portion may be set at 10%, with the total transfer being capped at ZAR 30,000.

Under the current provisions of the Bill, withdrawals from the savings pot would be subject to income tax, i.e., a progressive income tax system with a maximum marginal tax rate of 45%. Withdrawals from the retirement pot upon the member's resignation or retirement will remain subject to a 36% tax rate.

Underlying legislation

Revenue Laws Amendment Bill B39-2023, The Bill to amend the Income Tax Act, 1962, so as to amend certain definitions; to amend certain provisions; and to provide for matters connected therewith, has been sent for presidential assent.

United Kingdom

Revenue provides guidance related to forthcoming regulations the lifetime allowance abolition

Published 5 April 2024

On 4 April 2024, the Revenue Customs' Newsletter 158 – Abolition of the lifetime allowance (LTA) — communications and guidance, highlights the key impact of the abolition on the LTA that came into effect on 6 April 2024, which had been announced by the 2023 Budget, and achieved via The Pensions (Abolition of lifetime allowance charge) Regulations 2024.

Previously, the LTA set the maximum amount a plan member could draw from a second or third pilar pension plan in their lifetime without being subject to extra tax. The 2022-2023 LTA amount was set at GBP 1,073,000.

The Revenue Customs' Newsletter 158 states that further minor technical changes will be introduced via a second set of regulations that will be retroactively effective 6 April 2024. However, they will not affect the vast majority of plan members. They will primarily relate to specific protections or to individuals who plan to transfer their pension savings to a qualifying recognized overseas pension scheme (QROPS).

The Revenue Customs' Newsletter 158:

- spells out the forthcoming regulatory changes;
- provides guidance on how pension plans should operate during the interim period before these regulations come into force; and
- highlights areas that are still under consideration.

Employer Actions

According to the Revenue and Customs' Newsletter 158, employers should ensure that members are aware of forthcoming retroactively effective legislative amendments, and that they may need to wait until the announced additional regulations are in place prior to taking or transferring certain benefits.

This recommendation of Revenue and Customs is to prevent that pension plan members' available benefits and tax position need to be revisited later in the year.

Finally, Revenue and Customs has also announced that a consolidated copy of all frequently asked questions (FAQs) published to date is being reviewed by the LTA working group and is expected to be published in a forthcoming newsletter shortly.

Previously applicable LTA tax rate

Previously, any pension benefit amount exceeding the LTA was subject to a one-off tax rate of 25% if paid as pension benefit (i.e., bought as an annuity or drawn as income), or 55% if paid as a lumpsum. The tax could have been a combination of both rates depending on how the benefits in excess of the LTA was drawn. With the LTA abolished, these taxes no longer apply.

Useful resources

HM Revenue Customs' Newsletter 157, Lifetime Allowance (LTA) abolition — frequently asked questions
Pensions Tax Manual (PTM)

About Alliant Global

As a truly independent global brokerage and consultancy, Alliant brings a unique fresh approach to managing global employee benefits. We are broker-neutral, and therefore represent our clients without any favoritism or conflict of interest. Asinta – a strategic partnership of independent global employee benefits advisors, enhances our agility and our current and in-depth knowledge of market intelligence.

Our model enables Alliant to offer advice and ensure compliance when placing local coverage. Our team's talents and skills are the foundation of this approach.

Our global consultants provide a single point of contact for your HR team, providing seamless coordination with local country brokers and consultants, while addressing your on-going HR and employee benefits compliance and country knowledge needs.

Alliant's global benefits management services include:

- New country expansion
- Plan brokering and renewals
- Country benchmarking
- Cost analytics
- Country news and compliance knowledge
- M&A global due diligence

In addition, we provide our client with a unique user-friendly benefit inventory system—International IQ®—that gives you a 24/7 view of your international plan benefits, renewal dates, and more.

For more information, please contact us at: globalBenefits@alliant.com.