Alliant Global Services

Global Knowledge Center – Legal & Regulatory Updates

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Contents

Australia

Australia: Reporting to Workplace Gender Equality Agency amended

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On 11 April 2023, the Workplace Gender Equality Amendment (Closing the Gender Pay Gap) Act 2023 received the Governor-General's assent. The most notable changes are:

- The Workplace Gender Equality Agency (WGEA) obligated to publish gender pay gap (GPG) reports of all employers subject to GPG reporting (i.e., all employers with at least 100 employees) starting early 2024;
- New employer obligations, including employers with at least 100 employees having to report on three additional gender-related indicators, and on sex-based harassment, effective 1 April 2024; and
- Employers with at least 500 employees to develop policies to address any GPG, effective 1 April 2024.

These changes are detailed below.

Enhanced WGEA mandate

As indicated above, starting early 2024, in a move to close the GPG the WGEA will be required to publish employers' annual GPG reports, covering data over the period from 1 April 2022 to 31 May 2023. The WGEA will not publish employer-specific data or reports from older reporting periods.

Previously, in practice the WGEA compiled employer reported data, and only published data aggregated by industry. The WGEA has not published employers' individual reports or data.

Key employer obligations

The Act introduces new obligations for larger employers, which include:

- sharing their GPG reports,
- tracking and including additional gender-related indicators in their reports, and
- reporting on sex-based harassment.

Mandatory sharing of information the company's governing body

Effective 12 April 2023, the Act requires employers to share their GPG reports and its executive summary, as well as industry benchmarks with their Boards.

The WGEA already provided these reports, confidentially, to employers' CEOs.

Reporting on additional indicators

Currently, employers are required to report six gender equality indicators. These are:

- Workforce gender composition
- Gender composition of governing bodies
- Equal remuneration between women and men
- Availability and utility of employment terms, conditions and practices relating to flexible working arrangements for employees and to working arrangements supporting employees with family or caring responsibilities
- Consultation with employees on issues concerning gender equality in the workforce
- Sex-based harassment and discrimination

Effective 1 April 2024, three additional indicators will be added to employers' reporting obligation. These are:

- employee's age (year of birth)
- employee's primary workplace location
- CEO, head of business, and casual managers' remuneration

The WGEA noted that CEO remuneration has previously been reported. More than 50% of employers have been providing CEO remuneration to the WGEA voluntarily on an annual basis.

Reporting on sex-based harassment

Effective 1 April 2024, sex-based harassment at the workplace, and harassment or discrimination on the ground of sex will be added to employers' reporting obligation. Employers that do not currently track such data, can already start preparing for WGEA information requests that will become mandatory starting 2024.

The information that will be requested comprises:

- Policy/strategy provision, including employer accountabilities for:
  - preventing and responding sex-based harassment, harassment on the ground of sex or discrimination at the workplace;
  - providing of training, its frequency, and its content; and
  - the disclosure processes and management of disclosures.
- Leadership statements or communication to demonstrate commitment to prevention and response:
- Sexual harassment risk management measures;
- Prevalence data being collected; and
- Support available for employees.

Obligations for employers with 500 or more employees

Currently, employers with at least 500 employees must have policies for one or more of the gender equality indicators.

Effective 1 April 2024, the Act requires employers with at least 500 employees to provide to the WGEA additional information on their policies and strategies pertaining to all six of the currently reported gender equality indicators, listed above.

EMPLOYER ACTIONS

Employers' gender equality reports will be disclosed publicly by the WGEA starting early 2024. These publications will equip employees with information that could support salary negotiations.

Employers with at least 100 employees are advised plan revisions to be made to their data collection, analysis, and reporting practices to ensure that the three additional indicators mentioned above are, and that they are prepared to report on sex-based harassment at the workplace, and harassment or discrimination on the ground of sex, starting 1 April 2024.

Employers with at least 500 employers are advised to start developing policies and implementing strategies for all the six gender equality indicators prior to 1 April 2024.

Underlying Legislation

Workplace Gender Equality Amendment (Closing the Gender Pay Gap) Bill 2023 passed both houses on 30 March 2023 and received assent from the Governor-General on 11 April 2023. The Act amends the Workplace Gender Equality Act 2012.

Belgium

Belgium: Proposed legislation to allow for the transfer of unused parental leave entitlements to a surviving spouse or partner

Published 16 June 2023

On 13 June 2023, the Chamber of Deputies held its lates discussions on two proposed pieces of legislation that together would allow for the transfer of unused parental leave to a surviving spouse or partner. The transferability of parental leave in the event of the death of a parent is expected to come into effect 1 January 2024.

The proposed legislation

The two pieces of legislation under consideration are:

- Proposed Law to allow the transfer of the balance of the parental leave of the deceased parent to the surviving parent (*Proposition de loi permettant de transférer au parent survivant le solde du congé parental du parent décédé*)
- Motion for a resolution on the transferability of parental leave to the surviving partner (*Proposition de résolution relative à la transmissibilité du congé parental au partenaire survivant*)

According to current legislation, parental leave is an individual entitlement that cannot be transferred to the other parent or partner.

Transferability of parental leave

The proposed legislation, if legislated, would provide for an exception to the non-transferable nature of parental leave in the event of the death of one of a parents or partner. In which case, the unused balance of the parental leave of the deceased parent would be transferred to the surviving parent or partner.

Payment during transferred parental leave

During the transferred periods of parental leave, the surviving spouse or partner would receive an interruption allowance (*allocation d'interruption*) from the social security system based on their own employment status.

Other specifications of parental leave transfer

The precise modalities of parental leave transfer remain to be worked out by social partners within the context of the Leave Systems Assessment (*Evaluation générale des systèmes de congés existants*); an exercise that is currently underway within the National Labor Council (*Conseil national du travail - CNT*).

The CNT is a body that sends opinions or proposals, concerning general social problems of interest to employers and employees to the Parliament or to the government. The CNT can also conclude national and interprofessional collective labor agreements. These agreements are generally made mandatory by royal decree.

Belgium: Certain companies may award a tax-favorable purchasing power bonus to their employees through 31 December 2023

Published 26 June 2023

Starting 1 June 2023 and 31 December 2023, certain employers may grant a one-off tax-favorable purchasing power bonus (*prime pouvoir d'achat*) of up to EUR 750 to their employees, provided certain conditions are met.

In particular, the bonus must be granted in the form of a consumption check within the existing meal voucher (*titre-repas*) and/or eco-voucher (*écochèques*) framework. The consumption checks may be used by employees through 31 December 2024.

Social contribution treatment of the purchasing power bonus

Provided certain conditions are met, the purchasing power bonus is not subject to ordinary social security contributions provided certain conditions are met. However, a special contribution (*cotisation spéciale*) remains payable.

Certain conditions need to be met for the purchasing power bonus to be exempt from employer and employee social contributions. There are three sets of conditions, namely those pertaining to:

- both paper and electronic consumption vouchers,
- electronic consumption vouchers, and
- paper consumption vouchers

These conditions are detailed below.

General conditions for social contribution exemption

In order for consumption vouchers to be exempt from employer and employee social contributions, regardless of whether they are issued in electronic or paper form, the following conditions must be met:

- The granting of the purchasing power bonus must be provided for in a collective bargaining agreement (CBA) concluded at sectoral or company level. If the CBA is concluded at branch level (i.e., branch of economic activity), it must, define high profits in 2022 and exceptionally high profits in 2022. The bonus amount may be a maximum of EUR 500 for companies having had high profits in 2022, and a maximum of EUR 750 for companies having had exceptionally high profits in 2022.
  - If such a CBA is concluded at company level, it must include a justification that the company achieved good results in 2022.
  - If a CBA cannot be concluded in the absence of union delegation or if the bonus concerns a category of workers who are typically not usually covered by such a CBA, the bonus may be issued based on a written individual agreement.

- Any agreement (CBA or individual) must mention the maximum amount of consumption check, a maximum amount per check of EUR 10;
- The consumption check must be issued in the name of the employee. This condition is deemed met if the bonus is paid into the employee's individual account;
- The total amount of the bonus cannot exceed EUR 750 per employee;
- The bonus must be issued between 1 June 2023 and 12 December 2023 inclusive; and
- The bonus cannot be exchanged for cash.

The choice of a paper-based purchasing power bonus is regulated by a CBA. If such an agreement cannot be concluded in the absence of union delegation, or if it is a category of workers for whom it is not customary to provide for such an agreement, the choice for the bonus Purchasing power on paper is regulated by an individual written agreement.

Conditions for electronic consumption vouchers

The purchasing power bonus issued in the form of electronic vouchers must also meet the following conditions:

- The number of electronic checks and their gross amount must be mentioned on employee pay slips;
- Electronic vouchers must be provided by an approved voucher issuer;
- The employee must be able to check the balance and the period of validity of an unused consumption voucher;
- The use of electronic consumption checks cannot entail a cost for the employee except in the event of theft or loss of the card; and
- Electronic purchasing power consumption checks may be used through 31 December 2024.

Conditions for paper consumption checks

Specific information must be indicated on the consumption check if the purchasing power bonus is issued in paper form, namely:

- that it is valid until 31 December 2024;
- that it can only be used as payment for a meal or for the purchase of ready-to-eat food, or for purchasing environmentally sustainable products or services listed in the annex of the CBA amending CBA no. 98, that came into effect 1 March 2023 (*Liste des produits et services pouvant être acquis avec des éco-chèques. En vigueur le 1er mars 2023*).

Otherwise, the purchasing power bonus in the form of a paper consumption check becomes subject to social security contributions.

Special employer contribution

Employers are subject to a special social contribution of 16.5% of the purchasing power bonus amounts granted to their employees.

Tax treatment of the purchasing power bonus

Personal income tax

The purchasing power bonus that meets the conditions required to be exempt from employee social contributions is also exempt from income tax up to an amount of EUR 750.

In the event of more than one purchasing power bonus received from more than one employer, any amount in excess of EUR 750 will be subject to personal income tax.

Corporate tax

The purchasing power bonuses paid, and the corresponding special employer social contributions may be deducted from revenues as operational expenses for corporate tax purposes.

Underlying legislation

Law of 24 May 2023 on wage negotiation measures for the period 2023-2024 (Loi du 24 mai 2023 portant des mesures en matière de négociation salariale pour la période 2023-2024) published in the Official Journal (*le Moniteur belge*) on 31 May 2023.

Royal Decree of 23 April 2023 concerning the purchasing power bonus (*Arrêté royal du 23 avril 2023 concernant la prime pouvoir d'achat*), published in the Official Journal on 28 April 2023.

Canada

Canada: Nova Scotia restricts the ability of provincially regulated employers to request a medical certificate from absent employees

Published 15 June 2023

Effective 1 July 2023, according to amendments introduced in Schedule B of the Patient Access to Care Act - Bill 256, employers will only request a physician's sickness certificate with respect to an employee's absence from work due to sickness or injury unless the employee:

- is absent for more than five days, or
- has already had two absences of five days or less in the previous 12 months.

An employer can request a sick note if an employee is absent from work due to illness for a third single day over any 12-month period.

The Patient Access to Care Act - Bill 256, which amends the Employment Standards Act, received Royal Assent on 12 April 2023.

Employer Actions

Provincially regulated employers must update their leave policies, practices and procedures related to employee sick leaves to ensure compliance with the new restrictions on requesting medical certificates, which will come into effect on 1 July 2023.

Employers are advised to inform their employees of the changes introduced by law.

Canada: Ontario employers aware of opioid overdose risks must have naloxone kits in the workplace

Published 15 June 2023

Starting 1 June 2023, Ontario employers who are aware or ought to be reasonably aware of risks of employees having an opioid overdose must have at least one naloxone kit available in each of the concerned workplaces. Employers are not required to provide a naloxone kit in a workplace without an opioid overdose risk.

The Occupational Health and Safety Act 1990 was amended by the Ontario Regulation 559/22: Naloxone Kits to include this requirement.

Employers must make sure their naloxone kits are maintained in good condition. For a limited time, Ontario's Workplace Naloxone Program offers free naloxone training and kits to eligible employers.

It is worth noting that, liability protections under the Good Samaritan Act, 2001 would generally apply to an employee who administers naloxone at the workplace in response to an opioid overdose.

Criteria for determining compliance obligation

An employer must make a naloxone kit available in the workplace if it is aware, or ought reasonably to be aware, of all of the following:

- There is a risk of an employee opioid overdose;
- There is a risk that an employee overdoses while in a workplace where they perform work for the employer; and
- The risk is posed by an employee who performs work for the employer.

If any one of the above are not present, the employer does not need to comply with the Occupational Health and Safety (OHSA) requirements to provide naloxone kits in the workplace.

Employer Action

Effective 1 June 2023, employers who are aware or ought to be reasonably aware of employee opioid overdose risks must have at least one naloxone kit available in each of the concerned workplaces.

Ontario's Workplace Naloxone Program offers free naloxone training and kits to eligible employers (see resources section below).

Resources

Naloxone in the workplace

France

France: Proposed Law to extend mandatory profit-sharing mechanisms to smaller companies

Published 26 June 2023

On 24 May 2023, the Proposed law transposing the national interprofessional agreement on profit sharing (*Projet de loi portant transposition de l'accord national interprofessionnel relative au partage de la valeur au sein de l'entreprise*) was submitted to the National Assembly, and is undergoing a fast-track legislative process. The Proposed Law would extend mandatory tax-favorable profit-sharing mechanisms to companies with less than 50 employees. Currently, only employers with 50 or more employees must implement profit-sharing plans.

The Proposed Law's review under accelerated legislative procedure started on 26 June 2023.

Proposed pilot exercises

The Proposed Law provides for two pilot programs aimed at companies with less than 50 employees, to be implemented over a period of five years,

First pilot program

The first pilot exercise would simplify the implementation of a profit-sharing plan by allowing companies with less than 50 employees to voluntarily set up via a branch or company agreement, a profit-sharing plan that may be less favorable than what is currently legally provided for by law. Currently, profit-sharing agreements must guarantee benefits at least equivalent to a legally specified formula. The profit-sharing plans could provide for advances during the year on the future bonus. The frequency of advance payments could be quarterly, at most. Any overpayment would be repaid by the employee in the form of a deduction from pay. In addition, to favor the lowest paid employees, a profit-sharing agreement could provide for a salary floor and/or a ceiling for the calculation of the profit-sharing based on salary. Professional branches would have to start negotiations to this effect, by 30 June 2024.

Second pilot program

The second pilot exercise would start on 1 January 2025, when companies with 11 to 49 employees would have to set up at least one profit-sharing mechanism as soon as they have been profitable for three consecutive financial years, i.e., their net taxable profits are at least 1% of revenues for three consecutive financial years. This means that the company's results of the financial years ending since 2022 would be taken into account. The company's options would comprise:

- a profit-sharing plan,
- an employee savings plan (*plan d'épargne salariale*), i.e., PEE, PEI, PERCO or PERECO, or
- a profit-sharing bonus (*prime de partage de la Valeur, PPV)*.

Employers with a profit-sharing mechanism already in place, and sole proprietorships would be exempt.

Recent profit-sharing reforms

The Proposed Law is in line with reforms to promote profit-sharing mechanisms since 2017. Law n°2019-486 of 22 May 2019 relating to the growth and transformation of companies (*La loi n°2019-486 du 22 mai 2019 relative à la croissance et la transformation des entreprises*) simplified the implementation of mandatory profit-sharing plans (*la participation*) and voluntary profit-sharing plans (*l'intéressement*) in small and medium-sized enterprises (SME). Subsequently, Law No. 2022-1158 of 16 August 2022 on emergency measures for the protection of purchasing power (*La loi n° 2022-1158 du 16 août 2022 portant mesures d'urgence pour la protection du pouvoir d'achat*) further facilitated profit-sharing in SMEs by introducing a new value sharing bonus (*prime de partage de la valeur*).

With this latest Proposed Law, the government is taking yet another step based on its stated conviction that profit-sharing is an essential ingredient of business competitiveness, appreciation of work, social justice, and national cohesion.

Based on the government's stance with regard to profit-sharing arrangements, in September 2022 social partners engaged in a national interprofessional negotiation to strengthen profit-sharing mechanisms and to enhance employees' alliance with their company's performance.

A national interprofessional agreement (*Accord national interprofessionnel, ANI)* was finalized on 10 February 2023. This ANI provides for several measures divided into five priorities, all oriented towards the objective of boosting profit-sharing while recalling the non-substitution principle, according to which profit-sharing payments to employees must not be assimilated with wages.

France: Proposed law to introduce paid menstrual leave and miscarriage leave

Published 1 June 2023

On 26 May 2023, 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 submitted to the National Assembly (the lower house of parliament).

The proposal would introduce paid menstrual leave and./or remote work entitlements for women suffering from dysmenorrhea or endometriosis, and five days of leave for women having 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 and remote work entitlements

Menstrual leave

The Proposed Law would introduce 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 be paid by social security, from day one of the leave.

The duration of the leave would be one to two days per month based as prescribed by a medical certificate provided by a general practitioner or a midwife.

Remote work

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

The rationale for offering this flexibility is that menstrual pain discomfort may prevent a woman from going work, without necessarily being disabled to the point of not working.

The same article of the Proposed Law also specifies that the duration of remote work can be one or two days per month, without a medical certificate, provided the employee informs their manager.

Miscarriage leave

The Proposed law would amend Labor Code Articles L3142-1 through L3142-5 on Leave for family events, to introduce an employer-paid leave for women having experienced a miscarriage.

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

The duration of a miscarriage leave could be up to a maximum of five working days.

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

France: Temporary tax incentives for private use of employer-provided electric vehicle extended

Published 12 June 2023

On 1 June 2023, the tax authorities specified the rules to be applied through 31 December 2024 for calculating the value of in-kind benefits resulting from an employer-provided electric vehicle that is used by the employee for private purposes.

Specifically, the tax authorities extended tax-favorable provisions that were initially applicable to electric vehicles made available by employers between 1 January 2020 and 31 December 2022, to apply through 31 December 2024.

The rules for calculating the value of in-kind benefits resulting from the private use of an employer-provided non-electric vehicle (unchanged) and an employer-provided electric vehicle (extended) are detailed below.

Private use of employer-provided vehicle

Rules for calculating the value of in-kind benefits resulting from the private use of an employer-provided non-electric vehicle (unchanged), is either an annual lump sum specified by tax authorities or the actual expenses.

The lumpsum amount corresponds to 9% of the vehicle's purchase price (VAT included), or 6% for vehicles older than five years, plus any fuel expenses paid by the employer.

The actual annual expense comprises the vehicle value depreciation of 20% of the purchase price (10% for vehicles older than 5 years) or the lease amount in the case of a leased vehicle, insurance, and maintenance.

The value of in-kind benefit for a purchased vehicle is equal to the share of the annual expenses corresponding to the employee's private use of the vehicle as compared to its total use (measured in terms of mileage). Any fuel expenses paid by the employer is also added to the total expenses.

The value of in-kind benefit for a leased vehicle depends on whether the employers pays for fuel or not, as follows:

- If the employer does not pay for fuel: The value of in-kind benefit is 30% of the annual expenditure (i.e., lease, insurance, maintenance) capped at the maximum in-kind benefit applicable if the vehicle were purchased,
- If the employer pays for fuel: the value of the in-kind benefit is:
  - 30% of the annual expenditure plus costs of fuel capped at the maximum in-kind benefit applicable if the vehicle were purchased, or
  - 40% of total expenses including fuel expenses capped at the maximum in-kind benefit applicable if the vehicle were purchased,

Exclusively electric vehicle

The value of in-kind benefits resulting from the private use of an employer-provided electric vehicle, is assessed based on expenses actually incurred or based on an annual lumpsum amount (as is the case for non-electric vehicles detailed above), excluding electricity costs incurred by the employer for recharging the vehicle, and after applying a 50% reduction, the amount of which is capped at EUR 1,800 per year.

This provision, initially applicable to vehicles made available by employers between 1 January 2020 and 31 December 2022, per Article of the Decree of 26 December 2022 amending the decree of 10 December 2002 relating to the assessment of in-kind benefits for calculating social security contributions (*Arrêté du 26 décembre 2022 modifiant l'arrêté du 10 décembre 2002 relatif à l'évaluation des avantages en nature en vue du calcul des cotisations de sécurité sociale*), is extended through 31 December 2024.

Employer Actions

Employers offering in-kind benefits in the form of a company vehicle that is exclusively electric and that is used for private purposes by the employee must ensure that their payroll or payroll service providers account for the extension of the 50% reduction capped at EUR 1,800 per year when calculating the value of the in-kind benefit.

Underlying legislation

The rules were specified in the Annex - Salary and similar earnings - Assessment of the benefit resulting from the private use of a vehicle made available to the employee (*ANNEXE - Revenus salariaux et assimilés (RSA) - Évaluation de l'avantage résultant de l'usage privé d'un véhicule mis à la disposition du salarié*), which was published in the Official Public Finance Bulletin on 1 June 2023.

India

India: Tax-exempt limit for payments in lieu of unused annual leave upon retirement or resignation increased

Published 17 June 2023

Retroactively effective 1 April 2023, the income tax exemption limit for payments in lieu of unused annual leave entitlements upon retirement or resignation of private sector employees is increased by the Ministry of Finance to INR 2,500,000, up from previously INR 300,000 (unchanged since 2002).

The Central Board of Direct Taxes (CBDT) clarified that the exemption amount under section 10(10AA)(ii) of the Income-tax Act 1961 should not exceed INR 2,500,000 in total when payments in lieu are received from multiple employers.

Payment in lieu of annual leave provides employees the opportunity to receive cash payments for their unutilized paid annual leave entitlements. Such payments are subject to income tax. However, limited exemptions apply to payments in lieu of unused annual leave at the time of an employee's retirement or resignation.

The increase in the tax-exempt threshold was introduced by Notification No.31/2023 of 24 May 2023, published in the Gazette of India on 24 May 2023.

Netherlands

Netherlands: Documenting employees' opinion in a reintegration action plan becomes mandatory

Published 27 June 2023

Effective 1 July 2023, the opinion of an employee regarding their reintegration into the workforce after a period on short-term disability must be documented by the employer in the mandatory reintegration action plan, and during the evaluation that takes place after the employee's first year on short-term disability.

The new rule is intended as a guide to promote dialogue about the employee's reintegration into the workforce.

Transitional measures apply. The new requirement only applies to reintegration action plans produced on or after 1 July 2023. Employees who became ill prior to 1 July 2023, are not required to provide their opinion in an already existing reintegration action plan.

Reintegration regulations

When an employee is incapacitated for work due to illness, the employer must continue to pay wages for a maximum of two years, and during those two years make efforts to reintegrate a returning employee into its workforce.

The regulations governing the procedure that must be followed during the first and second years of short-term disability include rules pertaining to employee reintegration. An amendment of the existing regulations adds a requirement related to the employee's reintegration action plan, which must be produced within two weeks of an occupational physician's analysis of a short-term disability case.

In the reintegration action plan, the employer and employee jointly agree on:

- what will be done for the employee's reintegration,
- what they want to achieve and when,
- how and when they will evaluate the reintegration, and
- who will be the case manager.

Starting 1 July 2023, the employer and employee must, in addition to the above requirements, also state their opinion on the reintegration process detailed in the action plan. The opinion must be reformulated if an action plan is revised based on the advice of the company physician or an evaluation, and when the employer and employee conduct the first-year evaluation, which must be completed no later than in the fifty-second week of illness.

Note that it is already a relatively common practice for employers and employees to include their opinion in the reintegration action plan. The Employee Insurance Agency (*Uitvoeringsinstituut Werknemersverzekeringen, UWV*) informally requests it in a non-mandatory action plan form that is made available of its website.

Nevertheless, in the explanatory notes to the amendment regulation, the Minister of Social Affairs and Employment points out that the opinion does require some knowledge of reintegration legislation; and that the employer and employee may consult the occupational health and safety services, the case manager, or the occupational expert for guidance.

Employer Actions

Starting 1 July 2023, employers must document an employee's opinion on their reintegration in the reintegration action plan, and during the mandatory evaluation that takes place after the first year of short-term disability.

Any reintegration action plan or evaluation finalized prior to 1 July 2023, need not include the employee's opinion, unless changes are made to reintegration agreements after 1 July 2023.

Underlying legislation

Regulation of the Minister of Social Affairs and Employment of 9 May 2023, no. 2020-0000231089, amending the Regulations regarding the procedure for the first and second year of illness and the Regulations for the first and second year of illness procedures for safety nets without an employer related to reintegration opinion rules and a few other changes (*Regeling van de Minister van Sociale Zaken en Werkgelegenheid van 9 mei 2023, nr. 2020-0000231089, tot wijziging van de Regeling procesgang eerste en tweede ziektejaar en de Regeling procesgang eerste en tweede ziektejaar voor vangnetters zonder werkgever in verband met regels over de re-integratievisie en een enkele andere wijziging*), published in the Official Journal (*Staatscourant)* on 17 May 2023.

Poland

Poland: Proposed pan-European individual pension product law under parliamentary review

Published 15 June 2023

On 14 June 2023, the Draft law on Pan-European Personal Pension Product (Projekt ustawy o ogólnoeuropejskim indywidualnym produkcie emerytalnym) submitted to the Lower House of Parliament (*Sejm*) on 26 April 2023 by the Minister of Finance underwent its first reading.

The Proposed Law would introduce changes required for complying with the Regulation (EU) 2019/1238 of the European Parliament and of the Council of 20 June 2019 on a pan-European individual pension product (PEPP), including: providing European Union (EU) citizens new opportunities to save for retirement, enabling cross-border investments as well as portability when changing residence from one EU Member State to another.

Key provisions of the Proposed Law include:

- In Poland, the individual retirement account (*Indywidualne Konto Emerytalne, IKE*) is a third pillar pension product, that is similar to a PEPP. Therefore, the tax treatment applied to PEPP would be like the tax treatment of IKEs. In other words, tax exemptions would be introduced on income generated from saving in a PEPP sub-account. This would also apply to income generated at the time of withdrawing funds from a sub-account after the savings goal has been met.
- The annual limit of contributions to PEPP would be an amount corresponding to three times the average projected national monthly salary for a given year.
- To maintain the equality of individuals who save under PEPP in Poland and in other EU member states, an exemption from flat-rate income tax on PEPP benefits would be introduced.
- The limit of costs and fees related to the operation of PEPPs would be 1% of accumulated capital.
- Members who change their country of residence within the EU would be able to continue making contributions to the PEPP in their country of original residence. They would retain the right to the benefits of continued investments in the same product.
- Registration, offering, and distribution of PEPP in Poland would be supervised by the Polish Financial Supervision Authority.

The Proposed Law implements would also implement the recommendations from the Financial Stability Committee to improve and strengthen the capital base of cooperative savings and credit unions (*spółdzielcze kasy oszczędnościowo-kredytowe, SKOK*).

South Africa

South Africa: Law shifts self-set workforce equity goals to enforceable government-set targets

Published 12 June 2023

On 14 April 2023, the Employment Equity Amendment Act, 2022 (EEAA), which amends the Employment Equity Act (EEA) 55 (1998), was published in the Government Gazette No. 48418. The Act will take effect on a date that remains to be set by Presidential proclamation.

The EEAA moves away from self-set equity goals to enforceable government-set sectoral targets aimed at ensuring "equitable representation of suitably-qualified people from designated groups" in an employer's workforce.

New definition of designated employer

Once the EEAA comes into effect amending the EEA, its provisions will apply to employers with 50 or more employees, irrespective of their revenue. Currently, employers with less than 50 employees who meet certain revenue thresholds are considered as 'designated employer' who must comply with the provisions of the EEA.

Sector-specific diversity targets

Currently, employers are required to have a five-year employment equity plan (EEP) to achieve self-set performance goals to reach an equitable representation of designated population groups within their workforce. Employers are further required to annually assess the implementation of their EEP, and to monitor their progress towards achieving self-set five-year goals.

The provisions of the Employment Equity Amendment Act, 2022 (EEAA) will require employers' equitable representation goals be aligned with sector and sub-sector-specific targets set by the Ministry of Employment and Labor (MOEL) following consultations with stakeholders. Employers will be required to annually assess the implementation of their EEP, and to monitor their progress towards achieving sector-specific government-set goals aimed at ensuring "equitable representation of suitably qualified people from designated groups".

Compliance incentives

In addition to existing fines of up to 10% of an employer's revenues (unchanged), the EEAA introduces will incentives for employers to comply. Specifically, to carry out business with the government, employers will need Department of Employment and Labor certificate confirming their compliance with the provisions of the EEAA. Meaning the employer:

- Has either complied or has reasonable grounds for non-compliance with sector-specific targets
- Submitted its latest EEP
- Nor breached the prohibition on unfair discrimination, or paid workers less than the statutory minimum wage.

Employer Actions

The provisions of the EEAA are expected to come into effect in September 2023. Employers with 50 or more employees must be in compliance with the provisions of the EEAA upon its entry into effect. To be prepared and prevent a hurried implementation once the EEAA effective date is proclaimed, affected employers must:

- Review their existing EEP to identify areas requiring adjustments to comply with the new requirements, and drafting a revised EEP ready to incorporate sector-specific targets that remain to be announced and published in the Government Gazette by the MOE; and
- Assess their current compliance with the provisions of the EEAA, to identify required actions, or any obstacles that need be addressed.

Singapore

Singapore: Foreign national employees' mandatory medical insurance coverage enhanced, starting 1 July 2023

Published 7 June 2023

Effective 1 July 2023, employers renewing or sponsoring new Work Permits and passes, including S Passes, will be subject to enhanced medical insurance coverage requirements. Additionally, employers will be required to submit their employees' medical insurance policy details when applying for new or renewals of Work Permits and passes, as well as when employees' medical insurance policy details change.

On 31 March 2023, the Ministry of Manpower (MOM) announced the new requirements, stating that the changes will be implemented in two stages, starting 1 July 2023 and 1 July 2025 respectively, and will apply to policies, renewals, or extensions with a start date that is on or after these dates.

The enhancements are intended to protect employers from anticipated increases in employee medical claims, as medical costs increase.

The forthcoming changes are detailed below.

Foreign national employees' medical coverage

Currently, the mandatory medical insurance coverage is SGD 15,000 per year for employees on a Work Permit or on an S Pass. The cost of purchasing the mandatory medical insurance cannot be passed on to employees.

In the first stage of implementation, the mandatory coverage will increase to SGD 60,000 per year, with co-payments of 25% by employers and 75% by insurers for all claim amounts exceeding the first SGD 15,000. This increase applies to all policies, renewals, or extensions with an effective date that is on or after 1 July 2023.

Employers are not required to purchase medical insurance if the Work Permit or S Pass holder also holds a Dependent's Pass and already has a medical insurance that meets the minimum coverage requirements for Work Permit and S Pass holders. However, the said insurance plan must cover the full period of the Work Permit or S Pass validity.

As is currently the case, employers can have co-payment arrangements with their foreign national employees for non-work-related claims, if the employee meets the following criteria:

- The co-payment amount does not exceed 10% of the employee's monthly salary;
- The duration of co-payment does not exceed six months for every two years of employment; and
- The co-payment option is in the employment contract or a collective agreement and has the employee's full consent.

In the second stage, effective 1 July 2025, the following measures will be implemented:

- Standardization of allowable exclusion clauses;
- Introduction of age-differentiated premiums for those below and above the age of 50 years; and
- Requirement that insurers reimburse admissible claims directly to hospitals.

The enhanced requirements will apply to policies, renewals or extensions with an effective date starting on or after 1 July 2025.

Submission of foreign national employees' medical insurance details

Effective 1 July 2023, employers must submit their employees' medical insurance policy details online at Work Permit (WP) Online for businesses and employment agencies, when applying for new or renewals of Work Permits and passes, and when employees' medical insurance policy details change,

Employer Actions

Employers of current and future foreign national employees on Work Permit or an S Pass are affected by the new measures to enhance medical insurance coverage. Affected employers must ensure compliance with the new requirements starting 1 July 2023 for stage one and starting 1 July 2025 for stage two of coverage enhancements.

Employers are advised to anticipate staffing needs and to plan and assess the budgetary impact of the mandatory increase in insurance coverage from currently SGD 15,000 to SGD 60,000 per year, with employer co-payments for claim amounts exceeding the SGD 15,000, with the increase applying to all policies, renewals, or extensions that have a start date effective on or after 1 July 2023.

Employers intending to consider co-payment arrangements with their foreign national employees on a Work Permit or S Pass, must ensure that the concerned employees meet the required criteria.

United Kingdom

United Kingdom: New entitlement to unpaid carer's leave introduced by law

Published 12 June 2023

On 24 May 2023, the Carer's Leave Act 2023 received Royal Assent, entitling employees to at least one week of unpaid leave per year to care for a dependent with long-term care needs.

It is not yet clear when the provisions of the Act will come into effect. The Secretary of State must now introduce regulations entitling an employee to be absent from work on leave to provide or arrange care for a dependent with a long-term care need.

Entitlement to carers leave

Employees are entitled to a week of unpaid carers leave from their first day of employment, over any 12-month period to support a dependent with long-term care needs.

Specifically, an individual requiring long-term care, means they must have a long-term illness or injury that requires or is likely to require care for at least three months, be disabled as defined in the Equality Act 2010, or require old age-related care.

The individual requiring care may be the employee's spouse, civil partner, child, parent, an individual living in the same household as the employee or a someone who reasonably relies on the employee for care.

Drawing on the leave

Forthcoming regulations will specify how carer's leave may be drawn. The regulation will provide for the leave to be drawn non-continuously.

Employment protection

Employees on carer's leave are protected from termination or any damage or disadvantage resulting from exercising their entitlement to the leave (i.e., same protections as other family leave entitlements).

Employee rights during the leave

An employee on carers leave is entitled, for such purposes and to such extent as regulations may prescribe, to the benefit of the terms and conditions of employment which would otherwise have applied, had the employee not been on carer's leave.

Complaints to employment tribunal

An employee may complain to an employment tribunal that their employer has:

- unreasonably postponed a period of carer's leave, or
- prevented or attempted to prevent the employee from taking carer's leave.