Alliant Global Benefits

Global Knowledge Center – Legal & Regulatory Updates

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Contents

Brazil

Brazil: Law introduces limits on use of meal allowances and the Workers' Food Program

Published on 11 October 2022

Effective 5 September 2022, new limitations apply when employers contract a company to provide meal allowances or related services under the Workers' Food Program (*Programa de Alimentação do Trabalhador, PAT*).

Underlying legislation

The new limitations on meal allowance and workers food program provisions were introduced by Article 2 of Law no. 14.442 of 2022 (*Lei Nº 14.442, de 2 de Setembro de 2022*), which was published in the Official Gazette (*Diário Oficial da União*) on 5 September 2022 and came into effect upon its publication.

New limitations on meal benefits

Article 2 of Law 14.442 stipulates that the meal allowance under PAT, referred to in § 2 of art. 457 of the Consolidation of Labor Laws, approved by Decree-Law No. 5,452, of May 1, 1943 must exclusively be designated for the payment of food and meals, i.e., must be used to pay for meals in restaurants and similar establishments or for the purchase of foodstuffs in commercial establishments

Furthermore, Article 3 of Law no. 14.442 states that the employer, when contracting company to provide the meal allowance, cannot demand or receive:

- any type of discount or imposition of discounts on the contracted amount;
- transfer or payment terms that mischaracterize the prepaid nature of the amounts to be made available to employees; or
- other funds and direct or indirect benefits of any kind that is not directly related to the promotion of health and food safety of the employee, within the scope of contracts with companies issuing instruments for food allowance (*Facilitadora de aquisição de refeições ou gêneros alimentícios*).

The above prohibitions do not apply to contracts for the supply of food allowance that are already in force, until their end date or until 14 months after the publication of Law no. 14.442, the whichever occurs first.

Penalties apply

Article 4 of Law 14.442 provides for penalties for non-compliance among others, range from fines in the amount of BRL 5,000.00 (doubled in repeated cases), loss of related tax incentives, to registration cancellation apply to food allowance suppliers.

Employer Actions

Effective 5 September 2022, when contracting company to provide the meal allowance, employers cannot demand or receive:

- any type of discount or imposition of discounts on the contracted amount
- transfer or payment terms that mischaracterize the prepaid nature of the amounts to be made available to employees; or
- other funds and direct or indirect benefits of any kind that is not directly related to the promotion of health and food safety of the employee, within the scope of contracts with companies issuing instruments for food allowance.

Brazil: Telework-related provisional measure converted into law

Published on 26 September 2022

Effective 2 September 2022, Law No. 14,442, amends the Consolidation of Labor Laws (CLT) to convert the telework provisions of Provisional Measure no. 1.018 into law.

The Provisional Measure no. 1.018, amended Articles 62, 75-B, 75-C and 75-F, of the CLT, and in particular provided the definition and a framework for telework or remote work.

Definition of remote work

According to the amended Article 75-B of the CLT, telework or remote work is defined as providing through the use of information and communication technologies outside of the employer's premises, services that are not by nature off-site work.

Hybrid work does not detract from the telework

Based on the amendments, hybrid work (where an employee works both on premises and remotely) also became regulated under the telework framework. More specifically, according to Article 75-B, paragraph 1 of the CLT, an employee's attendance, even on a regular basis, at the employer's premises to carry out specific activities that require the employee's presence does not detract from the telework or remote work regime.

Employees covered

According to Article 75-B, paragraph 2 of the CLT, the employee subject to the telework or remote work regime may provide services by the day, by output, or by project.

According to Article 75-B, paragraph 8 of the CLT, the new provisions also apply to the employment contract of an employee admitted to Brazil who chooses to carry out telework outside the national territory, except for the provisions of Law No. 7,064, of December 6, 1982, which provide for employees hired and/or transferred to work abroad, unless otherwise agreed between the parties.

Telework and similar types of employment agreements

According to Article 75-B, paragraph 5 of the CLT, the time spent using technological equipment, necessary infrastructure, software, digital tools, or internet applications for teleworking outside the employee's normal working day does not constitute available time or time on standby, or on-call time, unless provided for in an individual agreement or by an applicable collective bargaining agreement (CBA).

Working time

According to Article 75-B, paragraph 9 of the CLT, an employment agreement may provide for the hours and means of communication between employee and employer, provided that statutory rest periods are complied with.

Telework-related expenses

According to amended Article 75-C, paragraph 3 of the CLT, the employer is not responsible for expenses resulting from the return to in-person work if the employee chooses to carry out telework or remote work outside the location provided for in the contract, unless otherwise stipulated between the parties.

Allocation of telework vacancies

Finally, Article 75-F of the CLT stipulates that an employer must prioritize employees with disabilities and employees with (or with judicial custody of) children up to 4 years of age when allocating telework or remote work vacancies.

Underlying legislation and legislative process

Changes initially introduced by Provisional Measure No. 1.108 (*Medida Provisória n° 1108*) were made permanent by Law No. 14.442 of 2 September 2022 (*Lei Nº 14.442, de 2 de Setembro 2022*), which was published in the Official Journal (*Diário Oficial da União*) on 5 September 2022, and came into effect on the same day.

Provisional Measures are rules or executive orders with the force of law, issued by the President of the Republic in situations of relevance and urgency. Despite immediately coming into effect, Provisional Measures need be approved by the Houses of the National Congress (Chamber and Senate) in order to become definitively an ordinary law.

Its initial term is 60 days, and it will be automatically extended for the same period, if the vote is not completed in both Houses of the National Congress. If it is not voted on within 45 days of its publication, it enters into an emergency regime in the House in which it is located (Chamber or Senate), with all other legislative deliberations of the House in which is being processed.

Belgium

Belgium: Employers must display a dated and signed notice of 2023 statutory holidays in the workplace by 15 December 2022

Published on 28 October 2022

By 15 December 2022, employers must display a signed and dated notice of the dates on which the 2023 statutory holidays will be observed. A copy of the notice must be appended to the employer's work regulations (*règlement de travail)*.

Employers and employees concerned

Private sector employers and their employees working in Belgium are concerned by the provisions of statutory holiday legislation.

Exceptions apply to Local Employment Agency (*Agence locale pour l'Emploi*) workers in terms of provisions related to replacements of public holidays and payment on public holidays.

Additionally, private sector employers are exempted from compliance with statutory holidays legislation with respect to their employees working abroad, provided such employees are granted statutory holiday benefits that are at least equivalent to those to which they would be entitled in Belgium.

Holidays falling on a non-working day

For holidays that fall on a Sunday or a typical non-working day, as is the case on Saturday, 1 January 2023 (New Year's Day) and Saturday, 11 November 2023 (Armistice), the employer must grant a replacement day on a workday for that holiday. The number of hours that would have been worked by an employee on the replacement day need not be taken into account when an employer sets the replacement date.

Part-time employees on a fixed schedule are entitled to public holidays and replacement days that coincide with their usual workdays. When the employee's working time is variable, they are entitled to paid public holidays coinciding with a working day; and to compensatory remuneration for public holidays which fall outside their working days. There is therefore no replacement day to be granted in this case, The only option is payment.

Replacement dates are set:

- At sector level by the joint sectoral committee or sub-committee and mandated by a Royal Decree; or
- At company level as decided by the Works Council; or
- Based on a mutual employer-employee agreement.

Working of statutory holidays

Employees working on a statutory holiday or on a replacement date is entitled to a pay and to compensatory paid day off within 6 weeks.

2023 Statutory Holidays

Legislation governing statutory holidays mandate 10 employer-paid statutory holidays to be observed over 10 working days, during which employees are to be paid their ordinary wages. The 2023 Statutory Holidays are presented in the table below.

Statutory Holiday	**2023 Dates(*)**
New Year's Day	Saturday, 1 January 2023
Easter Monday	Monday, 10 April 2023
Labor Day	Monday, 1 May 2023
Ascension Day	Thursday, 18 May 2023
Whit Monday	Monday, 29 May 2023
National Day	Friday, 21 July 2023
Assumption Day	Tuesday, 15 August 2023
All Saints' Day	Wednesday, 1 November 2023
Armistice Day	Saturday, 11 November 2023
Christmas Day	Monday, 25 December 2023

(*) Per Federal coalition agreement of 30 September 2020, the Brussels Region has decided to convert 8 May into an employer-paid holiday.

Employer Actions

Employers must post at the workplace a dated and signed notice of the 2023 statutory holiday observance dates before 15 December 2022.

Additionally, the following requirements apply with regard to the statutory holiday notice:

- The notice must mention the day(s) replacing the public holiday(s) that fall on a non-working day, which have been set according to prescribed procedures;
- The procedures of applying for a compensatory rest day in the event an employee works on a public holiday; and
- A copy of the notice must be appended to the employer's work regulations.

Legislation governing statutory holidays

Statutory Holidays are governed by Law of January 4, 1974 relating to public holidays (*Loi du 4 janvier 1974 concernant les jours fériés*) and the Royal Decree of 18 April 1974 determining the general terms and conditions for implementing the law of 4 January 1974 relating to public holidays (*Arrêté Royal du 18 avril 1974 déterminant les modalités générales d'exécution de la loi du 4 janvier 1974 relative aux jours fériés*).

The Federal coalition agreement of 30 September 2020 (*Accord de gouvernement 30 septembre 2020*) stipulates that the federated states have the possibility of transforming their public holiday into an employer-paid day off.

Belgium: Entry into effect of 4-day compressed schedule workweek imminent

Published on 30 October 2022

On 29 September 2022, the Bill on various employment measures (*Project de loi portant des dispositions diverses relatives au travail*), commonly referred to as the Labor Deal was approved by the House of Representatives. The legislation is currently pending publication in the Official Journal (*le Moniteur belge*). Once published in the Official Journal, the legislation will come into force. Its provisions have varying dates of effectiveness.

The Labor Deal includes provisions designed to enhance work-life balance by providing for greater flexibility for employers and employees to achieve the country's longer-term goal of 80% workforce participation rate by 2030.

Among its many measures the Labor Deal introduces various employment flexibility measures, namely:

- Four-day workweeks
- Alternating weekly work schedule
- Earlier notification of variable schedule part-time employees' working time
- Evening work in e-commerce

Key provisions of the new law pertaining to the 4-day workweek, which will enter into effect on the tenth day after the publication of the law in the Official Journal are detailed below.

The 4-day compressed workweek

The introduction of 4-day week allows a full-time worker to spread their weekly work hours over 4 days, instead of 5 days.

The standard limit of 8 hours of work per day no longer applies under the 4-day week regime.

4-day workweek options

The new 4-day week regime allows for the following arrangements depending on full-time employees working week:

- Those who work no more than 38 hours per week can work 9.5 hours per day, i.e., spreading their typical workweek over 4 days. This is made possible by amending the work regulations to reflect the change.
- Those who work more than 38 hours per week, i.e., up to a weekly limit of 40 hours, can divide their weekly working time by 4. In this case, a e company or sector level collective bargaining agreement (CBA) allowing the maximum daily working time of a full-time employee to correspond to their maximum weekly hours divided by 4, needs to be in place beforehand. This CBA can be added to the work regulations without having to follow the standard procedure for amending the work regulations.

Employees working 4-day weeks may not perform voluntary overtime work on the other day of the week. This is not to say that they cannot perform overtime work at all.

Employee request and employer response

An employee may request a 4-day week regimen by submitting a written request to the employer. The request is for a 6-month renewable period.

Provided the employer approves the employee's request, an agreement of a maximum duration of 6 months must be concluded at the latest when the employee's 4-day work week regimen starts. The agreement would spell out the employees revised workdays and work hours, the start and end dates of the agreement.

The employer may refuse an employee's request. In this case, the employer must justify the refusal in writing and within 1 month of receiving the employee's request.

Belgium: Entry into effect of Alternating workweek schedule pending publication in the official journal of the Labor Deal

Published on 29 October 2022

On 29 September 2022, the Bill on various employment measures (*Project de loi portant des dispositions diverses relatives au travail*), commonly referred to as the Labor Deal was approved by the House of Representatives. The legislation is currently pending publication in the Official Journal (*le Moniteur belge*). Once published in the Official Journal, the legislation will come into force. It's provisions have varying dates of effectiveness.

The Labor Deal includes provisions designed to enhance work-life balance by providing for greater flexibility for employers and employees in order to achieve the country's longer-term goal of 80% workforce participation rate by 2030.

Among its many measures the Labor Deal includes employment flexibility measures. One such measure is the possibility of alternating workweek schedules, which will enter into effect on the tenth day after the publication of the law in the Official Journal.

Key provisions of the Labor Deal pertaining to the introduction of alternating weekly schedules are detailed below.

Alternating workweek schedule

The introduction of alternating workweek schedule allows full-time employees to alternate longer and shorter workweeks. This can be useful for workers who find themselves, for example, in a co-parenting situation.

It is worth noting that employers may not impose an alternating workweek schedule. The request must be instigated by the employee.

Furthermore, a week is defined as a period of 7 consecutive days. So, alternating workweek cycles do not necessarily have to start on a Monday.

Employee request and employer response

An employee may submit a written request for an alternating workweek schedule to the employer. Requests and approvals are for a period of 6 months, renewable.

Employee requests that are accepted by the employer must be supported by a written agreement spelling out the details or the arrangement, including the start and end dates, and the employee's right to end the agreement with a 2-week prior notice given in writing to the employer. Furthermore, the details must allow to determine at any point in time when the alternating cycle begins.

An employee may only start working on an alternating schedule if the agreement in writing has been concluded.

The employer can refuse an employee request but must then provide the employee with a reason for the refusal in writing, and within 1 month of the employee's request.

Deviations from the alternating workweek agreement

Under alternating workweek schedule agreements, the workweek cycle may be spread over a 4-week period under 2 circumstances, namely:

- During the third quarter of a calendar year (i.e., June, July, August), or
- If the employee faces an unexpected event, in which case the normal workweek must be respected during this 4-week cycle. The employee must submit a written request to the employer explaining the unexpected event. If the employer accepts the request, an addendum must be added to the alternating workweek agreement. This agreement must mention the agreed 4-week cycle, as well as the period over which the 4-week cycle applies, and must be concluded prior to the start of the 4-week cycle.

An employee may terminate an alternating workweek agreement at any time and return to their initial workweek schedule, provided they notify their employer in writing 2 weeks ahead of the start of a new cycle.

Employer document processing and preservation obligations

Under the alternating workweek provisions of the new law, employers have certain obligations related to document processing and preservation. Specifically:

- Employee's written requests, the ensuing agreement and any addendum related to an application for a 4-week cycle in the event of an unforeseen event must be saved in the same place as the employer's work regulations, for at least 5 years beyond the end of the workweek flexibility period.
- A copy of the agreement must upon request be submitted to the committee for prevention and protection at work (*Comité pour la prévention et la protection au travail, CPPT)*, or to the union delegation, if the employer does not have a CPPT.

The employer must provide a copy of the alternating workweek schedule agreement and any addendum relating to the 4-week cycle to the employee.

Sanctions in the form of administrative fines ranging from EUR 200 to EUR 2000 per violation per employee apply for non-compliance with document preservation obligation.

China

China: Government incentivizes the development of its third pilar pension plan to support system sustainability

Published 7 October 2022

On 26 September 2022, China's Premier of the State Council announced measures that included income tax measures to incentivize the development of the country's first pension plan.

The announcement of private pension funds was long anticipated by financial companies. Once the market participation criteria are clarified, financial companies, and in particular, foreign financial asset companies with experience managing pension funds, would have a competitive advantage over domestic companies. Insurance companies and possibly commercial banks also stand to benefit from the announcement.

Annual member contribution limits

Under the private plan, individuals can annually contribute up to RMB 12,000 per year towards their retirement savings. This limit will be adjusted by the Ministry of Human Resources and Social Security and the Ministry of Finance. Member contributions can be invested in a variety of financial products, while at the same time creating new opportunities for banks and financial companies.

Income tax incentives

Retroactively effective 1 January 2022, the following income tax incentives for contributing members as well as retirees apply:

- Private pension plan members
  - would be able to deduct RMB 12,000 from their annual taxable income; and
  - any income generated by their plan investments would be income tax exempt.
- Income tax rate on pension benefits would be reduced from 7.5% to 3%

Private pension plan eligibility

All workers who participate in the basic pension insurance for urban employees or the basic pension insurance for urban and rural residents are eligible participate in the personal pension plan.

Background

On 21 April 2022, the State Council released Opinions on Promoting the Development of Personal Pensions (*推动个人养老金发展的意见*), which details the development of China's first private pension plan.

According to the State Council's opinion piece, the new pension plan is being rolled out to address an urgent need for pension reform as the country goes through one of the most extreme occurrences of aging population combined with a rapidly shrinking working age population and the current shortfall of employer-sponsored pension plans.

China: Data processors and CIIOs have until 1 March 2023 to address non-compliance with outbound data transfer security assessment

Published on 17 October 2022

The Cybersecurity Administration of China (CAC) issued The Measures for Security Assessment of Cross-border Outbound Data Transfers (数据出境安全评估办法) on 7 July 2022, followed by The Guide to the Application for Security Assessment of Cross-border Data Transfers (First Edition) (数据出境安全评估申报指南（第一版)) on 31 August 2022, both of which came into effect on 1 September 2022.

However, companies have a 6-month grace period from 1 September 2022 until 1 March 2023 to address any prior or current non-compliance with the new standards on cross-border data transfer security assessments.

The Data Security Assessment Measures and the Data Security Assessment Guidelines regulate cross-border data transfers in accordance with the Cybersecurity Law (CSL), the Data Security Law (DSL), and the Personal Information Protection Law (PIPL), and spell out the conditions under which a security assessment is required and how to apply for the CAC's data security assessment (where applicable). Only those data outbound activities that meet the conditions set out in the Security Assessment Measures will be subject to a government security assessment, following an independent self-assessment.

Data Security Assessment Measures

The Data Security Assessment Measures apply to outbound cross-border data transfers that are considered as "important data" or and "personal information" with a minimum threshold applicable to data processors and no threshold applicable to critical information infrastructure operators (CIIO). Companies operating in sectors classified as CIIO are provided in the Regulations on the Security and Protection of Critical Information Infrastructure (关键信息基础设施安全保护条例), adopted on 27 April 2021.

Definitions of personal and important data

Personal information is defined by the PIPL as "all kinds of information, recorded by electronic or other means, related to identified or identifiable natural persons, not including information after anonymization handling."

Important data is defined by Article 19 of the Measures as "data that, once tampered with, destroyed, leaked, illegally obtained, or illegally used, may endanger national security, economic operation, social stability, public health and safety, etc."

Cases where data security assessment is mandated

The Data Security Assessment Measures of 7 July 2022 provide that in the following cases a data security assessment is mandatory:

- Cross-border outbound transfer of important data by a data processor (Article 4 (1));
- Cross-border outbound transfer of personal information by a critical information infrastructure operator or personal information processors that have processed personal information of more than 1,000,000 individuals (Article 4 (2));
- Cross-border outbound transfer of personal information by a personal information processor that has in total made outbound transfers of personal information of 100,000 individuals or sensitive personal information of 10,000 individuals since 1 January of the preceding year (Article 4 (3)); or
- Other circumstances, as may be prescribed by the CAC (Article 4 (4)).

Self-assessment requirement

Per Articles 5, 6 data processors are required to carry out a self-assessment of any intended cross-border outbound data transfer and to prepare a self-assessment report.

Article 5 spells out the areas that a self-assessment must focus on, namely:

- The legitimacy, legitimacy, and necessity of the purpose, scope, and method of data transfer and data processing by overseas recipients;
- The scale, scope, type, and sensitivity of the data being transferred abroad, and the risks that the data being transferred abroad may bring to national security, public interests, and the legitimate rights and interests of individuals or organizations;
- The responsibilities and obligations that the overseas recipient undertakes, and whether the management and technical measures and capabilities for fulfilling the responsibilities and obligations can ensure the security of outbound data;
- The risk of data being tampered with, destroyed, leaked, lost, transferred, or illegally obtained or used during or after the data exits the country, and whether the channels for the protection of personal information rights and interests are unobstructed, etc.;
- Whether the outbound data transfer-related contracts or other legally binding documents to be concluded with the overseas recipient fully stipulate the responsibility and obligation of data security protection; and
- Other matters that may affect the security of data export.

CAC security assessment application, process, and timeline

The Data Security Assessment Measures spell out the key aspects considered by the CAC when reviewing data processors' self-assessments and application packages. In particular, the CAC's review will verify data processors compliance with national legislation, including administrative regulations and departmental rules. Per Article 8 of the Data Security Assessment Measures, the CAC will also assess whether the data protection policies and legislation governing the foreign recipient meet the standards set by China's legislation

The application processes and timeline are summarized below.

Upon completion of a self-assessment, data processors must submit an application for security assessment, that will be reviewed by the CAC (at both provincial and national levels). The assessment decision will be valid for 2 years. However, if main features of a data security assessment vary, the data processor may have to resubmit a security assessment application.

Article 6 outlines the materials that need to be submitted with this application.

The provincial level CAC will review the security assessment application upon receipt within 5 working d (Article 7), and if the application as complete, the provincial level CAC will forward it to the national level CAC, which will then decide within 7 working days whether to accept the application package. If accepted the security assessment process is typically completed within 45 working days of the data processor's acceptance notification. The data processor can file objections or requests for reassessment within 15 working days of the national CAC's notification of the assessment to the data processor. Article 13 of the Data Security Assessment Measures stipulate that the outcome of a reassessment is final.

Guide to the Application for Security Assessment of Cross-border Data Transfers

The CAC Guidance provides in more detail the CAC data security assessment requirements, and additional information on the required application materials and the CAC review process.

In particular, the Guidance lists the required application documents, including the application form, a copy of cross-border data transfer agreements to be signed with foreign data recipient(s), a self-assessment report data transfer risks, among other requirements. The Guidance also includes a template application form and a template self-assessment report.

Employer Actions

In light of the 6-month grace period to address any non-compliance with the new measures and guidance on data protection standards prior to 1 March 2023, multinational companies are advised to:

- Determine whether they fall within the categories of data processors subject to security assessments for outbound cross-border data transfers.
- Assess their cross-border data transfers and review their operations to identify their risks and obligations, and the type of outbound data that have been or are to be transferred (e.g., important data or personal information;
- The CAC assessment decision on outbound data transfer applications remains valid for 2 years, unless any key elements of a cleared assessment changes, in which case the data processor may have to resubmit a security assessment application. In other words, multinational companies should continuously monitor and assess their outbound data transfers and determine if and when they need to reapply for a security assessment.
- Ensure that their compliance and IT operations are adequately staffed, and have the required resources, and the mandate to carry out a self-assessment and to mitigate any identified risks; and

- Review their data privacy policies and practices and conduct self-assessments and make any needed adjustments; and
- Update all relevant staff communications and training materials.

Resources

Government press release on Measures for Security Assessment of Cross-border Data Transfers (数据出境安全评估办法)

European Union

European Union: Minimum wage directive adopted

Published on 15 October

On 4 October 2022, the EU Council announced in a press release that it had formally adopted the European Commission's (EC) Proposal for a Directive of the European Parliament and the Council on adequate minimum wages in the European Union, which had been adopted by the EU Parliament on 13 September 2022.

The Directive will enter into force on the twentieth day following its publication in the official journal. Member states will then have 2 years to transpose the provisions of the Directive into national law.

The Directive, which is expected to increase minimum wages across EU member states provides a framework:

- to promote adequacy and fairness of minimum wages;
- for strengthen collective bargaining agreements (CBA) on wage setting;
- for monitor CBA coverage and adequacy of minimum wages; and
- to enhance effective minimum wage protection.

A key feature of the provisions of the Directive is that statutory minimum wages will be considered as adequate if they are set at a level that is at least 60% of a member state's gross median wage or 50% of the member state's gross average wage.

Additionally, the Directive does not require member states that do not have a statutory minimum wage to introduce one. Currently 21 of the 27 EU member states have a statutory minimum wage. In the other 6 EU member states, namely, Austria, Cyprus, Denmark, Finland, Italy, and Sweden, minimum wages are set by CBA.

Adequacy and fairness of minimum wages

The Directive requires that member states with a statutory minimum wage introduce procedures for setting and adjusting the minimum wage on a regular and timely basis according to set criteria aimed at ensuring decent conditions. The measures to adjust the minimum wage must ensure the "effective involvement and cooperation" of social partners.

Strengthening CBAs on wage setting

The Directive aims to strengthen and expand the coverage of CBAs to further the protection of workers by providing them with a minimum wage negotiated by social partners. EU member states where CBAs are available to less than 70% of the workforce will be required to actively promote CBAs, either via legislation, or

through agreements with social partners. They are also required to develop an action plan aimed at promoting CBAs. The action plan will be notified to the EC and made public.

Monitoring and reporting of minimum wages

The Directive requires EU member states to monitor and report the rate of CBA coverage and the adequacy of minimum wages provided by CBA.

Furthermore, member states are required to report minimum wage data once every 2 years to the EC. The EC will review the reports and share them with European Parliament and the European Council. Specifically:

- member states with a statutory minimum wage will report the level of the minimum wage, the percentage of workers covered by the minimum wage, and a description of any variations of deductions.
- member states where minimum wages are set via CBAs will report to the EC:
  - the lowest pay amounts set by CBA and the percentage of workers concerned; and
  - the level of wages paid to workers not covered by CBA and how it compares to the wages of those covered by CBA.

Effectiveness of minimum wage protection

The Directive includes measures requiring EU member states to implement controls, inspections, penalties for non-compliance, ease of access to minimum wage protection information, and workers' right to redress.

France

France: In another inflation-related change pertaining to meal vouchers, a decree increases the daily cap on their use

Published on 3 October 2022

Effective 1 October 2022, the daily cap on the use of meal vouchers (*les titres restaurant*) issued between 1 September 2022 and 31 December 2022 increases to EUR 25, up from previously EUR 19.

This latest change to the parameters of meal vouchers was introduced by Decree No. 2022-1266 of 29 September 2022 raising the daily cap on the use of meal vouchers (*Décret n° 2022-1266 du 29 septembre 2022 relevant le plafond d'utilisation des titres-restaurant*), which was published in the Official Journal (*Journal officiel de la République française, JORF*) on 30 September 2022.

Other recent meal voucher related changes

Effective 1 September 2022, the employer tax-favorable contribution ceiling was increased from EUR 5.69 to EUR 5.92.

Effective 18 August 2022 through 31 December 2023, meal vouchers may be utilized for the payment of any food product, regardless of whether it is directly consumable or not.

France: CNIL releases compliance checklist for data controllers implementing or operating health data warehouses

Published on 5 October 2022

On 28 September 2022, in a press release the data protection authority (*la Commission Nationale de l'Informatique et des Libertés, CNIL*) released, a checklist for data controllers implementing health data warehouses. The checklist is to support compliance the CNIL Referential Relating to the Processing of Personal Data Implemented for the Purpose of Creating health data warehouses that was adopted in October 2021 via CNIL Deliberation n° 2021-118 of 7 2021.

It is worth noting that the CNIL press release stresses that: "Any negative ("false") answer to one of the questions means that the planned processing does not comply with the standards." Data controllers must then, prior to the implementation of a health data warehouse, obtain the CNIL's authorization for any processing that does not comply with all the requirements defined by the CNIL Deliberation.

Employers concerned

Employers with data controllers operating health data warehouses or planning to implement a health data warehouse are affected by the release of the compliance checklist. CNIL Referential does not apply to certain health data controllers and warehouse operators. These are spelled out up front in the CNIL checklist.

Employer Actions to Consider

Affected employers' data controllers operating or implementing health data warehouses should utilize the newly released CNIL checklist to ensure full compliance with the CNIL Referential adopted in October 2021.

A negative ("false") response to any checklist questions implies that a planned processing warehouse is not in compliance with the standards spelled out in the CNIL Referential. In this case, data controllers must, prior to implementation of a health data warehouse, obtain the CNIL's authorization for any non-compliant data processing.

Resources and underlying legislation

Compliance checklist - Referential relating to the processing of personal data implemented for the purpose of creating data warehouses in the field of health (*Check-list de conformité - Référentiel relatif aux traitements de données personnelles mis en oeuvre à des fins de création d'entrepôts de données dans le domaine de la santé*).

Deliberation n° 2021-118 of 7 2021 adopting a referential relating to the processing of personal data implemented for the purpose of creating data warehouses in the field of health (*Délibération n° 2021-118 du 7 octobre 2021 portant adoption d'un référentiel relatif aux traitements de données à caractère personnel mis en œuvre à des fins de création d'entrepôts de données dans le domaine de la santé*), which was published in the Official Journal (*Journal officiel de la République française, JORF*) on 26 October 2021.

France: European Committee of Social Rights decision on the severance pay grid is non-binding

Published on 3 October 2022

On 23 September 2022, the European Committee of Social Rights (ECSR) published its decision that the application of the Macron severance pay grid is in violation of Article 24 (b) of the European Social Charter (ESC), according to which all signatories must recognize "the right to adequate compensation or other relief in cases of unfair dismissal."

While France is a signatory of the ESC and the Convention 158 of the International Labor Organization (ILO), both of which stress an employee's right to adequate compensation or any other appropriate remedy, the ECSR's decision is non-binding.

The Macron grid is used to determine an employee's severance pay when a termination is deemed without real and serious cause and the employee is not reinstated. It includes mandatory floors and ceilings depending on an employee's years of service and the employer's size in terms of its workforce. There are 2 Macron grids, one is specifically for employers with fewer than 11 employees. Specifically, Article L 1235-3 of the Labor Code, limits the maximum amount of compensation to 20 months of gross salary for an employee with of 29 years of service. The compensation limits that apply to employers with less than 11 employees are lower with a narrower range of variation.

In its decision, the ECSR emphasizes that the French government's desire to provide employers with a legal predictability with the Macron grid "could rather constitute an incentive for the employer to wrongfully dismiss employees ", as the grid "could lead employers to make a realistic estimate of the financial burden that unjustified dismissal would place on them on the basis of a cost-benefit analysis."

The ECSR also stated that the caps not allow the judge to provide for a higher indemnity according to an employee's personal and individual circumstances, except to disregard article L 1235-3 of the French Labor Code.

Background

Since its origin the Macron grid has been called into question by industrial tribunals, followed by courts of appeal, who refused to apply it, judging the amounts awarded to the employees too low. After several years of debate on the application of the Macron severance pay grid, in Appeal No. 21-15.24 of 11 May 2022, the Supreme Court ruled that this scale must be applied to set the amount of severance pay in cases of termination without real and serious cause.

The debate focused on the application of European law and more particularly Convention 158 of the International Labor Organization (ILO) and the European Social Charter, which provides that national courts must be able to order the payment of adequate compensation or any other appropriate remedy in the event of wrongful dismissal.

France: Tax and social contribution treatment of meal and transport benefits retroactively amended

Published on 4 October 2022

Tax and social contribution treatment of various employer-provided meal and transport benefits have been amended by Law n° 2022-1157 of 16 August 2022 retroactively amending financing for 2022 to further incentivize employer reimbursements of employee expenses.

The new measures are detailed below.

Meal benefits

Article 1 of Law n° 2022-1157 amends tax and social contribution provisions related to meal vouchers and meal allowances, as detailed below.

Meal vouchers

The social contribution and income tax exemption limit for employers' share in the total value of meal vouchers is increased from EUR 5.69 to EUR 5.92. The new tax-exempt value applies to meal vouchers issued between 1 September 2022 and 31 December 2022.

Meal allowance

The social contribution and tax exemption threshold for flat-rate meal allowances will be revalued by up to 4% by a forthcoming implementation decree. The increased threshold will apply between 1 September 2022 and 31 December 2022.

Commute and transport benefits

Effective 1 September 2022 through 31 December 2022, Articles 2 and 3 of Law n° 2022-1157 amend provisions related to employee commute and transport expense benefits, as follows.

Sustainable mobility package

In response to increases in fuel prices, applicable to tax years 2022 and 2023, commute to work expenses personally incurred by an employee (sustainable mobility package, transport bonus (prime transport) for fuel costs) are exempt from income tax within an annual limit of EUR 700 per employee (up from previously EUR 500), of which a maximum of EUR 400 can correspond to fuel expenses (up from previously EUR 200).

Public transport expenses

According to Article L 3261-2 of the Labor Code, employers must cover, in a proportion and under the conditions determined by regulation, the price of public transport or bicycle rental subscription for their commute to work. In cases where the employer reimburses more than the mandatory percentage, the excess reimbursement (i.e., beyond what is mandatory) is subject to income tax.

Article 2 of Law n° 2022-1157 relaxes this limit so that the excess employer contribution up to 25% beyond what is legally mandated (i.e., 50%) is both exempt from social contributions, and from income tax, within the limit of 25% of the price of transport tickets.

In other words, the tax exemption is now limited to 75% of the expenses incurred by the employee (up from previously of 50%).

The increased limit applies for tax years 2022 and 2023.

Combined sustainable mobility and public transport

Amounts reimbursed by an employer in cases where the sustainable mobility package is combined with the payment of public transport costs, are (according to law n°2019-1428 of 24 December 2019) exempt from social contributions and income tax, up to an annual amount of EUR 600 per employee (including a maximum of EUR 200 for fuel expenses reimbursements).

Article 2 of Law n° 2022-1157 increases these tax and contribution exempt reimbursement limit from EUR 600 to EUR 800.

Combined fuel and public transport expenses

Previously, reimbursements for employees' fuel expenses (or energy expenses for electric, rechargeable hybrid or hydrogen vehicles) could not be combined with reimbursement of expenses incurred for public transport seasonal tickets (50% of which is mandatory).

Article 2 of Law n° 2022-1157 lifts the ban on combining the transport bonus with the mandatory payment of 50% of public transport subscriptions costs.

Underlying legislation

The measures were introduced by Law n° 2022-1157 of 16 August 2022 retroactively amending financing for 2022 (*Loi n° 2022-1157 du 16 août 2022 de finances rectificative pour 2022*), which was published in the Official Journal (Journal officiel de la République française, JORF) on 17 August 2022.

Decision of the Constitutional Council n° 2022-842 DC of August 12, 2022 (*Décision du Conseil constitutionnel n° 2022-842 DC du 12 août 2022*) confirming the constitutionality of the measures introduced by Law n° 2022-1157 of 16 August 2022 retroactively amending financing for 2022 was also published in the Official Journal on 17 August

France: AGIRC-ARRCO pension point purchase value increases by 5.12%, while pension point purchase value remains unchanged

Published on 18 September 2022

Effective 1 November 2022, the AGIRC-ARCCO pension point purchase price (*taux d'acquisition des points*) increases from EUR 1.2841 to EUR 1.3498. The pension point purchase value *(valeur d'achat du point de retraite*) remains unchanged at EUR 17.4316.

Under the AGIRC-ARCCO supplementary pension program employees have retirement point accounts under the mandatory AGIRC-ARCCO supplementary pension program. Pension contributions serve to purchase points based on AGIRC-ARCCO point values, which are then added to the employee's retirement point account balance, which later serve to calculate benefits paid by AGIRC-ARRCO upon retirement.

Typically, the AGIRC-ARCCO pension point purchase price and purchase value are annually revised, starting 1 November of each year. However, current legislation in force does not allow the AGIRC-ARRCO Board of Directors to decide on the pension point purchase value for 2023. It therefore remains unchanged, until it is revised in line with the provisions of the next interprofessional four-year national agreement over 2023-2026 (*Accord national interprofessionnel quadriennal sur 2023-2026*).

The pension point purchase price change was announced by AGIRC-ARCCO Circular n° 2022-09 (*Circulaire Agirc-Arrco n° 2022-09*) of 12 October 2022.

Resources

Point Purchase Price and Reference Salaries / Point Purchase Values – Trends (*Valeurs de service du point et salaires de référence / valeurs d'achat du point – Historique)*

Japan

Japan: New paternity leave and increased flexibility in the use of existing parental leave come into effect

Published on 3 October 2022

Effective 1 October 2022, male employees are entitled to 4 weeks of paternity leave, referred to as the Childcare at Birth Leave; and flexibility is added to the use of the existing government-paid Childcare Leave entitlements of both parents.

Paternity leave

Effective 1 October 2022, male employees are entitled to 4 weeks of paternity leave (Childcare at Birth Leave), called Childcare at Birth Leave (*Shussan ikuji kyūka*).

This new leave is in addition to the existing government-paid Childcare Leave entitlements of both parents.

Drawing on paternity leave

Paternity leave can be drawn in 1 or 2 periods within 8 weeks immediately following birth, subject to a two weeks' notice provided to the employer.

Payment during paternity leave

During the leave social benefits equivalent to those paid for maternity leave, that is 67% of salary. More specifically, maternity leave benefits are two-thirds of the mother's average daily earnings (i.e., her average monthly earnings over the previous 12 months divided by 30) up to an upper limit that only affects a very small number of employees. If a mother has been employed less than 12 months, the payment during maternity leave is the lower of (a) her monthly earnings for the insured period, or (b) the average monthly earnings of all insured employees.

Payments during leave are exempt from income tax and from social insurance contributions.

Parental Leave

Also, effective 1 October 2022, the existing government-paid 12 months parental leave (Childcare Leave), known as the Child Care Leave (*Ikuji kyugyo*) can be drawn in 1 or 2 separate periods, instead of previously only 1 continuous period. Parental leave can be extended to 14 months provided both parents take some of the parental leave, with each parent is only entitled to a maximum of 12 months from birth, including the maternity leave.

Drawing on parental leave

Parental leave (or Child Care Leave) may be drawn up to the child's 12 first months (or up to 18 months of age under certain circumstances) – unchanged. However, effective 1 October 2022 the Child Care Leave:

- Can be drawn in 1 or 2 separate periods, instead of previously only 1 continuous period; and
- Is subject to a shortened notice period of 2 weeks instead of the previously 1 month.

Payment during parental leave

Payment during parental leave remains unchanged at 67% of salary for the first 180 calendar days of Parental leave taken by each parent with a minimum payment of JPY50,250 per month and a maximum payment of JPY 304,314 per month, followed by 50% of salary with a minimum monthly payment of JPY 37,500 per month and a maximum monthly payment of JPY 227,100. It is worth noting the social insurance benefit payment is reduced if the social benefit plus parental leave benefit payments by the employer exceeds 80% of the employee's salary.

Underlying legislation

These changes were among others aimed at increasing parents' use of family leave entitlements in the *Act for Partial Amendments to the Act on Child Care Leave, Family Care Leave, and Other Measures for the Welfare of Workers Caring for Children or Other Family Members and the Employment Insurance Act*, promulgated on 9 June 2021. The amendments started being implemented in a phased manner on 1 April 2022. The underlying legislation bringing the latest provisions of the Act into effect are:

- Act on the Welfare of Workers Taking Care of Childcare or Family Care, such as Childcare Leave and Family Care Leave (including amendments as of 1 October 2020) – in Japanese
- Ordinance for Enforcement of the Act on Welfare for Workers Taking Care of Childcare or Family Care such as Childcare Leave and Family Care Leave (1 October 2022) – in Japanese

Implementation status of the key provisions of the Act

The provisions of the *Act for Partial Amendments to the Act on Child Care Leave, Family Care Leave, and Other Measures for the Welfare of Workers Caring for Children or Other Family Members and the Employment Insurance Act*, started to come into effect 1 April 2022. The key provisions and their dates of effectiveness are outlined below.

- Effective 1 October 2022, male employees enabled to take up to 4 weeks of paternity leave within 8 weeks of the birth of a child.
- Effective 1 April 2022, employers introduce various measures to encourage the use of family leave; inform employees of relevant leaves; and confirm with employees who have informed the employer of a forthcoming childbirth their intention to take leaves.
- Effective 1 October 2022, employees entitled to draw parental leave in 2 installments.
- Effective 1 April 2022, the requirement that a fixed-term employee must have been employed by the employer for at least 1 year to be eligible for leave under the child and family care Act abolished. However, labor-management agreements may provide that fixed-term employees employed for less than 1 year may be ineligible.

- Effective 1 April 2023, employers with more than 1000 employees required to disclose child and family childcare leave taken by their employees.

The implementation of one key provision is pending. Namely, the requirement that employers with 1000 or more employees disclose data on childcare leave taken by their employees. This provision will come into effect on 1 April 2023.

Employer Actions

Employers should ensure that their leave policies reflect the most recent changes related to male employees' entitlement to 4 weeks of paternity leave; and the flexibility added to the use of the existing government-paid parental leave entitlements.

The new paternity leave is paid by the national insurance system at a rate of 67% of the employee's average monthly salary. Employers may wish to consider topping up social benefits during paternity leave as a means of encouraging their employees to use their family care entitlements.

Furthermore, employers are advised to update their employee communication materials to remain in compliance with the employee communication provisions of the Act, that entered into effect on 1 April 2022.

Resources

- Explanatory material "Regarding the revision of the Child Care and Family Care Leave Act - Encouraging men to take Child Care Leave – In Japanese
- Pamphlet "Explanation of the 2021 Amendments to the Child Care and Family Care Leave Act – In Japanese

Italy

Italy: INPS Circular provides guidance on managing social contribution exemption entitlements of employees returning from maternity leave

Published on 14 October 2022

On 19 September 2022, the National Institute of Social Security (INPS) issued Circular No. 102 (Circolare n° 102 del 19-09-2022), which provides operational indications and accounting guidance on the exemption from the payment of social contributions due by certain mothers, as provided for by Article 1, paragraph 137, of the 2022 Budget Law (Legge 30 dicembre 2021, n. 234).

The measure is mainly intended to incentivize private sector female employees to return to the labor force following their maternity leave entitlements.

Employers and employees concerned

All private sector employers and their employees returning from mandatory maternity leave or from mandatory maternity leave followed by the optional parental leave.

Employee contribution exemption

The INPS Circular No. 102 announces a 50% exemption from social security contributions applicable to all private sector mothers for a maximum period of 1 year, starting from the date of their return to work after using their mandatory maternity leave.

Although the provision refers to the return after the use of mandatory maternity leave, and for a maximum period of 1 year, the employee may take optional leave at the end of the mandatory leave period. In that case the exemption from the payment of employee contributions still applies for a period of 1 year from the date of effective return to work of the employee.

The INPS Circular No. 102, provides indications for employers' management of the social security obligations in relation to the contribution exemption.

in addition to specifying the employees who are eligible for the social contribution exemption, the CINPS Circular indicates the requirements, the method of presenting the data in the UNIEMENS flow (i.e., the mandatory monthly report to be made to the INPS), and the accounting instructions.

Employer Actions

Employers must ensure that withholdings and payments of social contributions for mothers returning to work after taking their mandatory maternity leave (or mandatory maternity leave followed by the optional parental

leave) are in line with the provisions of the INPS Circular No. 102, and that, the method of presenting the data in the UNIEMENS flow, and the accounting are in line with the INPS-provided instructions.

Specifically, a 50% exemption from social security contributions is applicable to all private sector mothers for a maximum period of 1 year, starting from the date of their return to work after using their mandatory maternity leave, or mandatory maternity leave followed by the optional parental leave.

Netherlands

Netherlands: New law simplifies transfer of small pension values and allows for commutations

Published on 25 October 2022

Effective 12 October 2022, new legislation provides for the automatic transfer of almost all small pension plan values resulting in increased employee pension savings and allows for payment of commuted values.

Small value transfers

The new legislation extends the existing right of pension administrators to transfer small retirement plan balances upon termination of participation in a plan, when an employee separates from an employer and starts contribution to a different pension plan with a new employer. The new law extends pension administrators' rights to the value of almost all small retirement balances in plans to which the member no longer contributes irrespective of the underlying reason, i.e., almost all dormant pension accounts.

Under the provisions of the new law the reason behind small dormant accounts becomes irrelevant and therefore does not have to continue to be administered by the plan. Pension administrators may now resort to their new rights and transfer small dormant account values to reduce administration costs, while the accrued balance in a plan member's account remain for retirement purposes.

Payments of commuted values

The provisions of the new law allow for the commutation of the value of small balances due to reasons other than termination of a member's participation in the plan, upon or prior to retirement, provided a value transfer proves to be impossible.

The law also entitles pension providers to commute small net pension benefits and small net annuity.

Underlying legislation

The changes were introduced by Act of 28 September 2022 amending the Pensions Act, the 2001 Income Tax Act and any other laws relating to the adjustment of the scheme for value transfer and commutation of small pensions and introduction of commutation of small net pension and net annuity (*Wet van 28 september 2022 tot wijziging van de Pensioenwet, de Wet inkomstenbelasting 2001 en enige andere wetten in verband met aanpassing van de regeling voor waardeoverdracht en afkoop klein pensioen en invoering van afkoop klein nettopensioen en nettolijfrente*), which was passed by the Senate on 27 September 2022, and published in the Official Journal (*Staatsblad*) on 11 October 2022.

Poland

Poland - Standard workweek to be reduced while maintaining employees' pay

Published on 30 October 2022

On 22 September 2022, the Proposed law amending certain acts to establish a 35-hour working week (Projekt Ustawa o zmianie niektórych ustaw w celu ustanowienia 35-godzinnego tygodnia pracy) was submitted to Parliament. The Proposed Law provides for a gradual reduction in the standard of weekly working time from an average of 40 to 35 hours, without a reduction in pay, so that employees are paid the same for a reduced number of hours of work, in effect increasing their hourly pay, while increasing the amount of time they can devote to rest.

Workweek reduced from 40 to 35 hours

The proposed changes would be introduced gradually in that in the first 2 years, the standard weekly working time would on average not exceed 38 hours, and only then would the maximum working week would be reduced to the targeted 35 hours.

According to the Members of Parliament who drafted the Proposed Law, the reduction of the standard of weekly working time from 40 to 35 hours while maintaining employee pay would not only improve the quality of life of employees, introduce EU employment trends into Polish legislation, but would also contribute to the development of the economy by causing increased demand for labor by small-and-medium-sized-enterprises (SME) and micro-enterprises. These benefits would be in addition to the increased productivity which will be a natural consequence of reducing the number of hours worked.

According to the proposed amendment of Art. 129 Paragraph 1 of the Labor Code, working time would not exceed 8 hours a day and 35 hours for a 5-day working week calculated on average over an adopted reference period, which is not to exceed 4 months.

Alternating work schedules

The proposed provision provides for a great freedom in alternating work schedules across weeks over an adopted reference period. For example, the employer and the employee could agree to:

- 5 times 7 hours of work per day per week – 2-week reference period.
- 5 times 8 hours for the first week of a 2-week cycle, and 5 times 6 hours for the second week of the cycle – 2-week reference period.
- 8 hours of work from Monday through Thursday, then a 4-hour workday on Friday – 2-week reference period.
- 5 times 8 hours per day for 7 weeks and the eighth week paid time off – 8-week reference period.
- Other combinations that maintain a 35-hour workweek on average over an adopted reference period.

Other provisions of the proposed law

Other key provisions of the Proposed Law include:

- Weekly working time, including overtime, may not exceed an average of 43 hours in the adopted reference period (not to exceed 4 months).
- The working time of an individual with disabilities may not exceed 7 hours per day and 35 hours per week.
- The working time of an individual with severe or moderate disabilities may not exceed 6 hours per day and 30 hours per week.
- Other components of the employee's remuneration may not be lower than what has been received so far, while the monthly salary remains unchanged.

Singapore

Singapore: 2023 Statutory Holidays updated by Ministry of Manpower

Published on 6 October 2022

On 29 September 2022, in a press release the Ministry of Manpower (MOM) revised the Vesak Day date from 3 June 2023 as was initially published on 8 April 2022, to 2 June 2023.

There are 11 statutory holidays observed over a total of 11 employer-paid days off to all private sector employee covered by the Employment Act.

2023 Statutory Holidays

The revised 2023 statutory Holiday dates are indicated in the table below.

Statutory Holiday	2023 Date[3]
New Year's Day	Sunday, 1 January [1]
Chinese New Year	Sunday, 22 January [1] and Monday, 23 January
Good Friday	Friday, 7 April
Hari Raya Puasa	Saturday, 22 Apr 2023
Labor Day	Monday, 1 May 2023
Vesak Day	Friday, 2 June 2023 [2]
Hari Raya Haji	Thursday, 29 June
National Day	Wednesday, 9 August
Deepavali	Sunday, 12 November [1]
Christmas Day	Monday, 25 December

(1) When a statutory holiday falls on a non-working day, the holiday is observed on the following working day. As such, holidays falling on Sunday 1 January and Sunday 12 November will be observed on the following Monday; and the holiday falling on Sunday 22 January will be observed on Tuesday, 24 January 2023.
(2) Date revised from the initially announced 3 June 2023, to 2 June 2023.
(3) If 2 statutory holidays fall on the same day, the President may, by notification in the Gazette, declare any day in that year to be observed as an additional holiday.

Statutory holiday provisions of the Employment Act

The following summarizes key provisions of the Employment Act, Article 88 on statutory holidays.

Holidays falling on non-working days

Statutory holidays falling on a non-working day must be observed on the following working day.

Statutory Holidays on statutory leave days

Employees on authorized leave, such as sick leave, annual leave, or unpaid leave on the day immediately preceding or following a statutory holiday, are also entitled to their gross pay. However, employees are not entitled to paid statutory holiday if the holiday falls on an approved unpaid leave.

Bridge holidays

The Employment Act does not require employers to bridge a statutory holiday with a weekend or weekly rest days(s).

Pay in lieu of holiday observance

When a public holiday falls on a non-working day, the employee is entitled to another day off or one additional day's salary in lieu of the public holiday at their gross rate of pay.

Compensation for work on a statutory holiday

Employees who are required to work on a public holiday are entitled to an additional day of pay, in addition to their gross rate of pay for that day. However, the employers and the employees may mutually agree to substitute a public holiday with another working day.

Employer Actions

Employers must comply with the statutory holiday provisions of the Employment Act, and in particular grant and pay all employees governed by the Act their entitlement to 11 holidays in 2023 on the dates specified by MOM.

The Act includes provisions regarding employer obligations when a holiday falls on a non-working days or on an approved leave days, on payment in lieu, as well as on compensation for work performed on statutory holidays.

South Korea

South Korea: New DC plan investment option rules apply, starting 11 July 2023

Published on 18 October 2022

By 11 July 2023, employer-sponsored defined contribution (DC) pension plans must have implemented new differentiated investment option according to rules introduced by the Amendments to the Employee Retirement Benefits Security Act (근로자퇴직급여 보장법, ERBSA), from which members must select one as their investment option. The amendments came into effect on 12 July 2022.

Prior to these amendments, employer-sponsored DC plans primarily invested in principal interest guaranteed products, mainly because their members' lacked interest in selecting an investment fund.

Additionally, under the new rules:

- Employers' DC plan investment options and revised plan documents require the approval of employee representatives, as well as the approval of the Ministry of Employment and Labor.
- Default investment option which must be principal-guaranteed products, target date funds, balanced funds, asset allocation funds, money market funds, and/or social overhead capital funds, must be designated by the employer from the various investment options offered under the employer plans.

All employers providing DC pension plans to their employees, and their member employees are affected by the amendments.

Employer Actions

By 11 July 2023, Employers with DC Pension Plans must:

- Ensure their DC pension plans offer differentiated investment options;
- Acquire the approval of their plans' investment options from employee representatives, and of the Ministry of Employment and Labor; and
- Designate a qualified default investment.

Switzerland

Switzerland: Paid statutory adoption leave to start 1 January 2023

Published on 10 October 2022

Effective 1 January 2023, eligible parents who adopt a child under the age of 4 years are entitled to 2 weeks of adoption leave. Payment during adoption leave is provided for by the Loss of earnings allowance system (*Assurance perte de gains, APG*).

Adoption leave entitlement is governed by a newly introduced Article 329j of the Code of Obligations (*Droit des obligations*); and payments of an allowance during adoption leave is governed by Articles 16t through 16x of the Loss of Earnings Compensation Act (*Loi fédérale sur les allocations pour perte de gain, LAPG*).

Currently there is no federal entitlement to adoption leave. Some collective bargaining agreements (CBA) provide for adoption leave. Additionally, according to the Federal Act on Compensation for Loss of Earnings cantons may provide adoption allowances for working parents. The cantons of Vaud and Geneva pay adoptive parents 14 and 16 weeks of allowances, respectively, corresponding to 80% of the salary. The allowance is available to only 1 of the adoptive parents, and provided that parent effectively stops working during the leave.

Employers concerned

The obligation to grant adoption leave to eligible employees concerns all employers.

Entitled to adoption leave

An employee's entitlement to adoption depends on their entitlement to the adoption leave allowance. Indeed, according to Article 329j paragraph 1 of the Code of Obligations, employees who adopt a child and meet the criteria for the adoption leave allowance stipulated in Article 16t paragraph 1 of the LAPG are entitled to 2 weeks of adoption leave.

The entitlement to adoption leave is per child adopted, unless 2 or more children are simultaneously adopted.

Eligibility for adoption allowance

The conditions for granting the adoption allowance are the same as those for the maternity and paternity allowance. Per Article 16t paragraph 1 of the LAPG the criteria that must be met by an employee for being eligible for the adoption leave allowance is as follows:

- A child less than four years of age is placed in the employee's home for adoption;

- The employee has been insured under the Old Age and Survivors Insurance Act during the 9 months preceding the placement of the child and was employed for at least 6 months; and
- Is an employee (or self-employed) as defined by social security law or gainfully works for a at the time the child is placed for adoption.

If the child is adopted jointly by both parents, then both must meet the above eligibility criteria.

Per Article 16t paragraph 5 of the LAPG, the adoption of the child of a spouse or a partner does not entitle the employee to the allowance.

Adoption benefits

The adoption benefits consist of the one hand of the leave granted by the employer, and on the other had of payment of an allowance during the leave.

Duration of adoption leave

Per Article 329j paragraph 1 of the Code of Obligations the maximum duration of the leave is 2 weeks.

Adoption allowance amount

The adoption allowance amounts to 80% of the average income from gainful employment, but at most CHF 196 per day.

During adoption leave, the employee is not entitled to salary from the employer, unless mutually agreed otherwise. The employer may top-up the adoption leave allowance to the employee receives 100% of their wage during the leave.

Drawing on the leave

Adoption leave must be taken within a year following the reception of the child. If both parents are employed, the two weeks of adoption leave may be shared between the parents, but, according to Article 329j paragraph 3 of the Code of Obligations, they cannot draw on the adoption leave simultaneously.

According to Article 329j paragraph 4 of the Code of Obligations adoption leave may be drawn on a weekly or daily basis.

Additionally, per Article 329b paragraph 3 of the Code of Obligations), drawing of adoption leave may not result in reduced annual leave entitlement.

Legislative background

A parliamentary proposal "Introduction of an Adoption Allowance" of 12 December 2013 called for the introduction of a government-paid 12-week adoption leave at federal level. The Committee for Social Security and Health of the Swiss National Council (*la Commission de la sécurité sociale et de la santé publique du Conseil national, SGK-N)* reduced the proposed duration of the leave to 2 weeks. The SGK-N approved the Bill (*Initiative parlementaire Introduire des allocations en cas d'adoption d'un enfant*) on 5 July 2019, and

submitted it to the Swiss National Council (the lower house of Parliament), and the amendment to the law was adopted on 1 October 2021.

The referendum period related to the parliamentary bill expired on 20 January 2022. According to the Federal Social Insurance Office (*Office fédéral des assurances sociales, OFAS)* the Regulation on allowances for loss of earnings (*Règlement sur les allocations pour perte de gain*) was pending the final decision of the Federal Council. At its meeting of 24 August 2022, the Federal Council approved the adoption leave provisions and set its effective date on 1 January 2023. The legislation is pending publication on Fedlex , the publication platform for federal laws.

Employer Actions to Consider

Employers may wish to review internal leave, and in particular, their family leave policies to ensure any adoption leave policies or other leaves utilized for adoption purposes are fully aligned with the forthcoming statutory provisions.

Additionally, employers are advised to inform their employees about their new adoption-related leave and social allowance entitlements.

United Arab Emirates

United Arab Emirates: Ministerial Resolution increases the annual rate of Emiratization by 2%

Published on 25 October 2022

To increase the number of UAE nationals employed by the private sector, the government has announced several new laws including Ministerial Resolution No. 279 of 2022 requires employers to annually recruit Emirati citizens at a rate of 2% of their workforce. The measure is to implement the UAE's Emiratization strategy to achieve an Emiratization rate of 10% of the labor force by 2026.

Establishments registered with the Ministry of Human Resources & Emiratization, employing more than 50 workers, must annually increase their rate of Emiratization by 2% to gradually achieve a labor force composed of a least 10% of Emiratis by 2026.

The resolution entered into force on 6 June 2022, and fines for non-compliance start applying as of 1 January 2023.

Employers affected by the Ministerial Decision

The Ministerial Resolution No. 279 of 2022 applies to all employers with more than 50 employees registered with the Ministry of Human Resources and Emiratization (MOHRE). Employers based in the free-trade zones are not concerned.

Calculation of the Emiratization rate

Employers are to number of Emirati citizens they must annually recruit based on the number of skilled employees in their workforce. Specifically, each year employers must recruit 1 national employee for every 50 skilled employee in their workforce, as detailed in the table below.

Number of Skilled Employees	Minimum Recruitment of UAE Nationals
0 to 50	1 Citizen
51 to 100	2 Citizens
101 to 150	3 Citizens
More than 151	1 citizen for every 50 skilled employee or part whereof

Definition of skilled employees

According to MOHRE, an employee is classified as skilled if they meet all the following criteria:

- The worker must be at a professional level (one amongst first to fifth level mentioned above)
- The worker has obtained a certificate higher than the secondary certificate or an equivalent certificate
- The certificate must be attested by the competent authorities
- The monthly salary (excluding commission) of the worker must not be less than AED 4,000 (as of 11 October 2022).

Penalties for non-compliance

The government will start issuing fines as of 1 January 2023. For every Emirati employee not hired, the employer will be fined at least AED 6,000 per month (Amount to be annually adjusted).

The targeted percentage of Emiratization will increase gradually by 2% as of 2023 until achieving the desired rate of 10% by 2026 in accordance with the law.

Employer Actions

According to a recent Ministerial Resolution, all employers with more than 50 employees registered with MOHRE, with the exception of employers based in the free-trade zones, are required to annually increase their rate of Emiratization by 2% of their workforce until 2026. Fines of at least AED 6,000 per month apply for non-compliance staring 1 January 2023.

Resources

Ministerial Resolution No. 279 of 2022 – A non-official MOHRE translation

United Kingdom

United Kingdom: Government reversed tax-related measures of the mini-budget, prior to Prime Minister's resignation

Published on 17 October 2022 (Updated on 20 October 2022)

On 17 October 2022, the new Chancellor of the Exchequer announced an almost total reversal of the various tax-related measures of the mini-budget released on 23 September 2022 and embarked on an economic plan of public spending cuts, whereby even the defense and health budgets and even previous commitments to index pensions to inflation would not be guaranteed.

On 20 October, the new Prime Minister announced her resignation after 45 days in office, and following the turmoil caused by the release of the mini-budget.

The mini-budget of 23 September 2023, referred to as The Growth Plan 2022, included a series of employment, pensions, and tax reforms intended to stimulate growth, including reforms in:

- Social contributions
- Income tax
- Pension plans charge cap
- Company Share Option Plan rules

As of 17 October 2022:

- The IR 35 will not be repealed;
- There will be no reduction in the basic rate of income tax from currently 20% to 19%;
- The 45% additional income tax rate for the highest earners will remain in place (i.e., will not be abolished); and
- The dividend tax will also remain in place (i.e., will not be abolished, as initially announced).

The current Prime Minister Liz Truss announced that her successor would be selected within a week.

Previously proposed tax-related measures

The income tax reforms initially proposed included changes to the basic tax rate, an additional income tax rates, and the repeal of IR35. These now reversed measures are detailed below.

Basic income tax rate

The basic income tax rate paid on current earnings between GBP 12,571 and GBP 50,270 would have been cut to 19% as from 6 April 2023 (rather than 6 April 2024), down from currently 20% applicable in England, Wales, and Northern Ireland. Tax rates and related income bands for Scottish Income taxpayers for non-savings, non-dividend income (NSND) are set by the Scottish Government.

Additional income tax rate

Starting 6 April 2023, the additional rate of income tax would have been abolished. That is:

- The 45% higher rate of income tax applicable in England, Wales and Northern Ireland. on taxpayers' annual NSND above GBP 150,000 would have been abolished; as would
- The additional rate applicable to savings, dividends, and the default additional rate.

Therefore, a single higher income tax rate of 40% would have applied.

IR35 Repealed

According to the initial proposed provisions of the mini-budget, starting 6 April 2023 the reforms of the IR35 off-payroll working rules which were introduced in 2017 for the and in 2021 for the public and private sectors respectively, would have been repealed. This would have implied that from 6 April 2023, workers providing services via an intermediary would self-determine their employment status and pay the corresponding NICs and income tax.