

# Alliant Global Services

## Global Knowledge Center – Legal & Regulatory Updates

April 2023



## Contents

- Australia .....3
  - Australia: Scope of eligibility for flexible working arrangements expanded .....3
- Chile .....6
  - Chile: New paid leave for parents of children on the autism spectrum introduced by law .....6
- India.....7
  - India: Eligible employees may apply for EPS contributions based on uncapped pay via the recently launched online system until 3 May 2023.....7
- Indonesia .....10
  - Indonesia: Employers must pay the religious holiday allowance in full starting with the 2023 Eid al Fitr .....10
- Ireland.....12
  - Ireland: Provisions of the EU Work Life Balance Directive transposed into local legislation .....12
  - Ireland: Employer guidance on reportable tax-exempt benefits issued by Revenue .....16
- Poland.....17
  - Poland: EU Work Life Balance Directive transposed into local legislation .....17
- Peru .....20
  - Peru: Bill proposes leave for dysmenorrhea or menstrual discomfort .....20
- Türkiye.....21
  - Türkiye: Statutory retirement age criteria abolished; government incentivizes rapid rehiring of retiring employees .....21
- United Kingdom .....23

United Kingdom: Employment Tribunal awards for injury to feelings and psychiatric injury increased by up to 14% .....23

# Australia

## Australia: Scope of eligibility for flexible working arrangements expanded

Published 18 April 2023

Effective 6 June 2023, [the Fair Work Legislation Amendment \(Secure Jobs, Better Pay\) Act 2022](#) will update the flexible working arrangements provisions of the [Fair Work Act 2009](#). The amendments include:

- expanding the eligibility criteria to allow more employees access to request flexible working arrangements;
- giving the employees the option to dispute their requests to the Fair Work Commission (FWC); and
- requiring employers to respond to requests by genuinely trying to reach an agreement and, in the case of a refusal, providing detailed and justified reasons for the refusal to the employee.

These amendments are detailed below.

### Eligibility for flexible working arrangements

Currently, employees with at least 12 months of service with their employer can request a flexible working arrangement under the Fair Work Act if they meet one or more of the following criteria:

- are the parent or have responsibility for the care of a child who is school-aged or younger;
- are a carer (under the Carer Recognition Act 2010);
- have a disability;
- are at least 55 years of age;
- are experiencing domestic violence;
- are providing care or support a member of their household or immediate family who requires care; or support because of domestic violence.

Effective 6 June 2023, under [Section 65\(A\) of the amending Act](#), the following eligibility criteria will be added to the aforementioned list, thereby expanding the scope of employees eligible for requesting flexible working conditions:

- the employee, or a member of their immediate family or household, is experiencing family and domestic violence; or
- an employee who is pregnant.

For casual employees to be eligible for flexible work arrangements, they must be a long-term casual employee and have a reasonable expectation that there is no firm advance commitment to becoming an employee. [Section 15\(A\) of the Fair Work Act](#) defines a Casual employee as an employee who “accepts an offer for a job from an employer knowing that there is no firm advance commitment to ongoing work with an agreed pattern of work”.

## Employers' obligations

Employers who receive a request for flexible working arrangements will be required to:

- meet with the employee and genuinely try to reach an agreement;
- have regard for the consequences of any refusal of the request on the employee; and
- provide detailed reasons for any refusal and inform the employee of any alternative working arrangements they would be willing to make instead to accommodate the employee's circumstances. Currently, employees cannot review their denied requests.

The refusal must be based on reasonable business grounds, this includes:

- requested arrangements are too costly;
- other employees' working arrangements can't be changed to accommodate the request;
- impractical to change other employees' working arrangements or hire new employees to accommodate the request; or
- the requested working arrangements would likely result in a significant loss in efficiency or productivity.

All employers need to respond in writing within 21 days from receiving the request.

## Dispute resolution

Effective 6 June 2023, the FWC will be empowered to deal with disputes regarding flexible working arrangement requests if 21 days have passed and the employer has not responded to the employee's request.

An employee who considers the handling of their request or its refusal as discriminatory continues to have remedies under applicable discrimination legislation, including the discrimination provisions of the Fair Work Act 2009.

## Penalties may apply

An employer who fails to comply with an order made by the FWC will risk the imposition of a civil penalty under section 539 of the Fair Work Act.

## Employer Actions

Effective 1 June 2023, employers who receive a request for flexible working arrangements from an eligible employee will be required to:

- meet with the employee and genuinely try to reach an agreement;
- have regard for the consequences of any refusal of the request on the employee; and
- provide detailed reasons for any refusal and inform the employee of any alternative working arrangements they would be willing to make instead to accommodate the employee's circumstances.

An employer's refusal must be based on reasonable business grounds. All employers need to respond in writing within 21 days from receiving a request.

Employers who fail to comply with a FWC dispute-resolution order may be subject to civil penalties.

Additionally, employers need to update the current flexible working arrangement policies to include the new eligibility criteria, namely:

- employee, or a member of their immediate family or household, experiencing family and domestic violence; or
- employee who is pregnant.

## Underlying legislation

The [Fair Work Legislation Amendment \(Secure Jobs, Better Pay\) Act 2022](#) received Royal Assent on 6 December 2022, providing for a series of employment and industrial relations reforms including the flexible working arrangements under [Section 65\(A\) of the Act](#), which is set to go into effect six months after the day the Act received Royal Assent, i.e., 6 June 2023.

# Chile

## Chile: New paid leave for parents of children on the autism spectrum introduced by law

Published 4 April 2023

Effective 10 March 2023, Act No. 21545 amends the Labor Code to introduce a new emergency leave entitlement for parents or legal guardians of minor children duly diagnosed with autism spectrum disorder.

### Employer obligations

Effective 10 March 2023, a new Article 66 of the Labor Code provides that the time allocated to care during emergencies by employees with minor children duly diagnosed with autism spectrum disorder will be considered as time worked for all legal purposes. As such, the emergency leave is employer-paid.

The employer may not, under any circumstances, classify the employee's departure from work as untimely and unjustified. In other words, the employer may not qualify the employee's emergency-related absence to establish the grounds of termination due to unjustified abandonment of work.

### Employee obligations

To be entitled to this emergency leave, affected employee must notify the Labor Inspectorate of their status as a parent or guardian of a minor who is under their legal guardianship, and diagnosed with autism spectrum disorder.

### Underlying legislation

The leave was introduced by Article 25 of Law 21545 that Established the Promotion of Inclusion, Comprehensive Care, and Protection of the Rights of People with Autism Spectrum Disorder in the areas of health and education ([Establece la Promoción de la Inclusión, la Atención Integral, y la Protección de los Derechos de las Personas con Trastorno del Espectro autista en el ámbito social de salud y educación](#)), which was published in the Official Journal (Diario Oficial de la República de Chile) on 10 March 2023.

### Employer Actions

Starting 10 March 2023, employers must grant paid emergency leave to parents or legal guardians of minor children duly diagnosed with autism spectrum disorder who leave their work for related emergencies, provided they have informed who have notified the Labor Inspectorate of their status. The child autism emergency absences from work are employment protected, in that the employer may not qualify the employee's emergency-related absence to establish the grounds of termination.

# India

## India: Eligible employees may apply for EPS contributions based on uncapped pay via the recently launched online system until 3 May 2023

Published 14 January 2023, updated 26 April 2023

According to the Supreme Court ruling of 4 November 2022 on the [Employees' Provident Fund Organisation v. Sunil Kumar](#) case, certain employees and certain retirees who were employed prior to 1 September 2014 had until 3 March 2023 (i.e., up to 4 months after the ruling) to request that their employers contribute (including for past years of service) to the Employees' Pension Scheme (EPS) based on uncapped pay, and to have their EPS benefits calculated based on uncapped pay as well (i.e., on pay exceeding the current limit of INR 15,000).

It is worth noting that, both employee and employer contributions on uncapped pay are involved. As a result, a joint employer-employee application is required for Employees' Provident Fund (EPF) and EPS schemes when contributions are made on uncapped pay. This is not a new requirement, but was upheld by the Supreme Court's ruling, which states that it is a joint option to contribute on higher pay under the EPS.

Since the ruling, the application deadline has been extended by an official statement, and a number of implementation Circulars have been issued by the Employees' Provident Fund Organisation (EPFO) – the latest of which is intended to publicize and promote joint employer-employee applications and was issued on 23 April 2023. As a result of this latest Circular, which details the joint application verification process, and announces the launch of an online application system, employees are more likely to opt to contribute more to the EPS moving forward.

These developments since the ruling are:

- The EPFO Circular of 23 April 2023 ([Application for validation of option/joint options – Scrutiny of information and wage details submitted by the employee and employer](#)), which explains the joint application verification process, and announces the deployment of an online system for joint applications that will remain available through 3 May 2023 (i.e., the deadline for applying for employees retiring on or before 1 September 2014 is May 3, 2023).
- On 13 March 2023, EPFO announced in an official press statement that based on demand from employee and employer associations, the Chairman Central Board of Trustees extended the joint application deadline from 3 March 2023 to 3 May 2023."
- A [Ministry of labor and Employment Press Release of 4 March 2023](#), announced the release by the EPFO of the online Joint (Employee and Employer) application form along with the required documents to make contributions to the EPS on uncapped pay.
- EPFO [Circular 25 January 2023, and Circular of 20 February 2023](#) (addressed to EPFO's regional offices) together provide instructions on how to comply with the Supreme Court ruling on higher pension

benefits. The Circulars provide guidance on conditions for employees to opt for contributions on uncapped pay or opt out. Eligible employees will need to exercise their option to make higher contributions to the EPS by 3 May 2023, as prescribed on the [EPFO portal](#).

- [EPFO Circular of 20 February 2023](#), provides guidelines related to the process of applying for higher pension benefits under the EPS. Under the provisions of this initial Circular, employees could opt for higher pension on or before 3 March 2023, the initial deadline that was later extended.

## EPF, EPS, and the 2014 amendments

Employer and the employee together contribute 12% of an employee's pay (up to a set limit) to the Employee Provident Fund (EPF). The employer's share of contribution (i.e., 8.33% of pay) is contributed towards the EPS and the balance (i.e., 3.67% of pay) is contributed to the EPF.

Prior to September 2014, employer and employees could mutually agree to contribute based on pay exceeding the set limit (which was increased in 2014 to INR 15,000, up from previously INR 6,500); and for pension benefits to be calculated in accordance with actual contributions.

However, amendments introduced by the Employees' Pension (Amendment) Scheme 2014 abolished this option for new EPS members and closed the EPS to new members earning over the newly set limit of INR 15,000.

Additionally, the 2014 amendments introduced a requirement for members exercising such option (i.e., jointly agreed between employer and employee to contribute based on pay exceeding the set limit) to contribute to the EPS an additional 1.16% of the salary exceeding the INR 15,000 cap.

## Employees and retirees concerned by the ruling

In light of the intricacies and complexities that may be involved for employers in implementing this ruling, a [Circular Pension 2022/54877](#) issued by the EPFO on 29 December 2022 clarified that the following EPFO subscribers may, by 3 March 2023, elect for higher pension benefits in accordance with the Supreme Court's ruling:

- EPS members having contributed based on a salary that exceeded the prevailing cap of INR 15,000 or INR 6,500 prior to 2014;
- EPFO subscribers who under the EPS prior to the 2014 amendments mutually agree to contribute based on pay exceeding a set limit; and
- EPFO member whose exercise of such option was declined by the EPFO.

## Additional contributions based on pay exceeding the set limit eliminated

As indicated above, the 2014 amendments introduced a requirement for employees to contribute to the EPS an additional 1.16% of their salary in excess of the set limit. While the Supreme Court ruling eliminates this requirement, the implementation of this part of the ruling is postponed by six months. This delayed implementation is to allow the Parliament to make the necessary amendments to the EPS.



Therefore, for a period of six months beyond the Supreme Court's ruling, employees contributing on a salary that exceeds the set limit must, as a makeshift measure, continue to contribute the additional 1.16% calculated on pay exceeding the cap. The terms of eventual future adjustments would depend on further EPS amendments.

## Application process for eligible employees and retirees

EPFO Circulars of 29 December 2022, and the EPFO Circular of 20 February 2023, provide instructions to eligible employees on applying for higher pension benefits under the EPS.

Since 23 April 2023, employees and eligible retirees can visit [EPFO's Member e-Sewa portal](#) to apply. By clicking on "Pension on higher salary: Exercise of joint option on or before May 3, 2023" a new page allows for selecting "Application form for joint options - Joint options under erstwhile para 11 (3) and para 11 (4) of EPS 1995 for employees who were in service prior to 1st September 2014 and continued to be in service on or after 01.09.2014 but could not exercise joint option under erstwhile provision to para 11 (3) of EPS 1995 to be exercised on or before 3rd May 2023". The form must be completed with information such as the members universal account number (UAN), Aadhaar number (i.e., the individual's national identity number). After entering the required details, the system will provide a one-time passcode via mobile number linked to their national identity number to validate the individual's identity.

In case any adjustments are to be made from EPF to EPS for example, the applicant's consent is required by the system. If resources need to be transferred from EPF to EPS, the applicant would be required to pledge paying the amount plus any interest dues until the payment date.

The required documents to be submitted as part of the application (as may apply) are:

- Proof of joint option under para 26(6) of the EPF Scheme duly verified by the employer;
- Proof of joint option under the proviso to Para 11 (3) of the pre-2014 amendment EPS duly verified by the employer;
- Proof of payment to the EPF on pay in excess of the applicable wage ceiling;
- Proof of payment to the EPS on pay in excess of the applicable wage ceiling; and
- A refusal in writing of such payments by any higher EPFO authority (e.g., the Assistant Provident Fund Commissioner).

# Indonesia

## Indonesia: Employers must pay the religious holiday allowance in full starting with the 2023 Eid al Fitr

Published 12 April 2023

On March 27, the Ministry of Manpower issued Circular Number M/2/HK.04.00/III/2023 on the Implementation of 2023 Religious Festivity Allowance (*Tunjangan Hari Raya, THR*), stating that in 2023 employers must pay the THR bonus in full starting with the Eid al-Fitr holiday which occurs on 22 April 2023, meaning the bonus payment is due by 15 April 2023, at the latest.

During the COVID-19 pandemic, the government allowed employers who could demonstrate their inability to meet their THR bonus payment obligations to delay or pay the THR in installments, although they had to prove their inability to pay in full.

### The THR annual bonus

#### *Entitlement*

The THR bonus is an annual employer payment to employees, which is due at least one week prior to the start of the religious holiday observed by the employee.

According to the Regulation of the Minister of Manpower and Transmigration Number 6 of 2016 concerning Religious Holiday Allowances for company workers ([Peraturan Menteri Tenaga Kerja dan Transmigrasi Nomor 6 Tahun 2016 tentang Tunjangan Hari Raya Keagamaan Bagi Buruh/Pekerja di Perusahaan](#)), the religious holidays for which THR payments are due are: Eid-il-Fitr (Muslim), Christmas (Christian), Nyepi (Hindu), Vesak (Buddhist), and the Chinese New Year (Confucianist).

#### *Eligible employees*

All local employees with at least 1 month of continuous service based on indeterminate or fixed-term employment agreement are eligible for the THR which must be paid in local currency.

#### *THR bonus amount*

The annual THR bonus amount for employees with 12 or more months of service is the equivalent of one month's salary; while for employees who have less than 12 months of service the THR bonus is pro-rated.

Company agreements, or collective agreements may provide for higher amounts.

#### *Sanctions apply for non-compliance*

Non-compliance may result in fines and other administrative sanctions which are not a waiver of the employer's obligation to pay the THR. The sanctions include:

- A fine of five percent of unpaid THR,
- A written warning,
- Restrictions on business activities,
- Temporary suspension of production; and
- Temporary suspension of business activities.

## Employer Actions

By 15 April 2023, employers must pay the annual Religious Festivity Allowance (THR) in full to their local employees observing Eid-al Fitr. Similarly, moving forward at the latest one week before each of the following holidays Christmas, Nyepi, Vesak, and the Chinese New Year, the THR must be paid in full.

Additionally, any unpaid balances from COVID-19 pandemic years during which the government allowed employees to delay or pay the THR in installments must now be paid in full.

Sanctions for non-compliance (including fines) do not waive the employer's payment obligations.

## Underlying legislation

The requirement to start paying the Religious Festivity Allowance (THR) in full starting with Eid al-Fitr 2023 was initiated by the Minister of Manpower Circular Letter Number M/2/HK.04.00/III/2023 concerning the Implementation of Providing Religious Holiday Allowances in 2023 for Workers/Laborers in Companies ([Surat Edaran Menaker Nomor M/2/HK.04.00/III/2023 tentang Pelaksanaan Pemberian Tunjangan Hari Raya Keagamaan Tahun 2023 Bagi Pekerja/Buruh di Perusahaan](#)), issued on 27 March 2023.

# Ireland

## Ireland: Provisions of the EU Work Life Balance Directive transposed into local legislation

Published 12 April 2023

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

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

The Act is pending one or more commencement orders for its provisions to go into effect. Additionally, the Act is pending the Workplace Relations Commission (WRC) to publish its Code of Practice regarding remote working arrangements.

### Leave for medical care purpose

The Act introduces an unpaid leave for medical care purpose. This leave will supplement the existing carer's leave and the *force majeure* Leave. Employees will be entitled to a maximum of five days of unpaid leave over any 12-month period, starting from their first day of employment.

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

#### *Drawing on the leave*

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

#### *Requesting the leave*

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

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

### *Employment protection*

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

### **Flexible and/or remote work for care purposes**

The following employees are entitled to request flexible working arrangements for care purposes:

- an employee who is a relevant parent of a child and who is or will be providing care to that child;
- an employee who is or will be providing personal care or support to a qualified individual.

A flexible working arrangement for the care of a child will end on the day on which the child has reached 12 years of age. For a child who has a disability or a long-term illness, employees will be entitled to flexible working arrangement for the care of a child up to the day the child has reached 16 years of age.

### *Requesting the leave*

Remote working arrangements can be requested by any employee with certain caring responsibilities, according to the provisions of the Act. The arrangements can start as soon as the employee has 6 months' continuous service. Upon an employee's request, the employer would have four weeks to consider and respond to the request. The time limit for the employer is extendable up to eight weeks, if assessing the feasibility of the request is difficult.

When responding to an employee's request, and to justify an eventual refusal, employers would need to consider not only their own and their employee's needs, but also the provisions of a Code of Practice that is expected to be issued by the WRC.

Employers cannot postpone the start date of flexible working arrangements.

An employer can terminate a remote and/or flexible work arrangement, provided its proposal to terminate the arrangement:

- is justified, that is for:
  - seasonal variations in the volume of the work concerned,
  - the unavailability of a person to carry out the duties of the employee,
  - the nature of the duties of the employee in the employment,
  - the number of employees with the same duties,
  - the number of employees in the employment whose periods, or
  - any other matters adversely impacting the employer's business.
- provides the concerned employee the opportunity to respond to the termination proposal; and
- considers the employee's response prior to making its final decision.

### **Extension of breastfeeding leave and work flexibility period**

Currently, mothers are entitled to take 26 weeks of paid time during their workday (typically totaling one hour) for breastfeeding purposes without a reduction in pay.

The Act increases the duration a mother is entitled paid time off during their workday for breastfeeding from 26 weeks to 104 weeks.

## Domestic violence leave

According to the new provisions, all employees will be entitled to the new employer-paid Domestic Violence Leave of up to 5 days in any 12-month period.

Employees can request the leave for any of the following:

- seek medical attention;
- obtain services from a victim services organization;
- obtain psychological or other professional counselling;
- relocate temporarily or permanently;
- obtain an order under the Domestic Violence Act 2018;
- seek advice or assistance from a legal practitioner;
- seek assistance from the Garda Síochána;
- seek or obtain any other relevant services

### *Eligibility for domestic violence leave*

Domestic violence is defined in the Act as: "Violence, or threat of violence, including sexual violence and acts of coercive control committed against an employee or a relevant person by another person".

"Relevant person" is defined as any of the following in relation to the employee:

- the spouse or civil partner of the employee,
- the cohabitant of the employee,
- a person with whom the employee is in an intimate relationship,
- a child of the employee who has not attained full age, or
- a person who, in relation to the employee, is a dependent person.

"Another person" is defined as any of the following:

- the spouse or civil partner of the employee or relevant person,
- the cohabitant of the employee or relevant person,
- the individual who is or was in an intimate relationship with the employee or relevant person, or is a child of the employee or relevant person who is of full age and who is not, in relation to the employee or relevant person, a dependent person.

### *Payment during the leave*

A daily rate of pay capped at a maximum daily amount, referred to as "domestic violence leave pay" and prescribed by government regulation, must be paid by the employer for each day on which the employee is on domestic violence leave.

### *Requesting the leave*

An employee must, as soon as feasible, inform their employer that they have taken domestic violence leave and provide the dates of leave.

## **Underlying legislation**

Work Life Balance and Miscellaneous Provisions Bill 2022 was passed by Seanad Éireann (the upper house of parliament) on 1 March 2023 and was signed into law by the president on 4 April 2023.

The Act transposes the provisions of the [European Union \(EU\) Directive 2019/1158 of 20 June 2019 of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU](#) into Irish legislation.

The Act amends the Parental Leave Act 1998 to entitle certain employees to leave for medical care purposes and to request flexible working arrangements for caring purposes; and for those and other purposes to amend the Redundancy Payments Act 1967, the Unfair Dismissals Act 1977, the Maternity Protection Act 1994, the Adoptive Leave Act 1995, the Organization of Working Time Act 1997, the National Minimum Wage Act 2000 and the Workplace Relations Act 2015.

# Ireland: Employer guidance on reportable tax-exempt benefits issued by Revenue

Published 6 April 2023

On 7 March 2023, the Irish Revenue Commissioners issued an eBrief creating a new Tax and Duty Manual on [Returns by Employers in Relation to Reportable Benefits – Part 38-03-33](#), which is to be read in conjunction with Part 38 and Part 42 of the [Taxes Consolidation Act 1997 \(TCA 1997\)](#).

The manual concerns employers' mandatory reporting of certain tax-exempt benefits, as provided for by the [Finance Act 2022](#).

Specifically, the Finance Act 2022 provides for mandatory employer reporting of three tax-exempt employee benefits, jointly referred to as "reportable benefits". These are:

- the remote working daily allowance of EUR 3.20
- the travel and subsistence expense payments, and
- the small benefit exemption.

The new Tax and Duty Manual does indicate that this provision of the Finance Act 2022 is still pending a Commencement Order to allow sufficient time for a public consultation. It does, however state that reporting is expected to start from 1 January 2024.

The Tax and Duty Manual further states that the above changes are intended as the first step of a phased introduction of employer reporting of other tax-exempt employee benefits or payments; and that detailed guidance on the exact information to be reported will be issued in due course.



# Poland

## Poland: EU Work Life Balance Directive transposed into local legislation

Published 11 April 2023

Effective 26 April 2023, legislation transposing the provisions of the EU Work Life Balance Directive into local legislation amends provisions related to parental leave; shortens the timeframe over which paternity leave may be drawn; and introduces five days of unpaid carer's leave, as well as two days of partially-paid *force majeure* leave.

### Parental leave

#### *Leave entitlement*

Currently, the length of parental leave (*urlop rodzicielski*) is 32 weeks per family. That is, 32 weeks in total for the mother and the father.

Effective 26 April 2023, parental leave entitlement will be extended by nine weeks to 41 weeks for a single birth (or adoption or fostering of a child) and to 43 weeks for multiple births (or adoption or fostering more than one child), which includes an entitlement of nine nontransferable weeks for each parent. In other words, the nine weeks of parental leave cannot be transferred to the other parent, and if not used by the end of the calendar year in which the child turns six years of age, the leave will be forfeited.

Parents of a child with a severe and irreversible disability or an incurable life-threatening disease, which arose either during prenatal leave or during childbirth, are entitled to 65 weeks of parental leave (or 67 weeks cases of multiple births, or the adoption or fostering of multiple children).

Additionally, adoptive parents will also be entitled to the extended parental leave, until the adoptive child reaches the age of 14 years, as opposed to previously seven years of age or younger (and in some cases up to 10 years of age).

An employee who uses or has used parental leave for a foster child, and then applies to adopt the child being fostered, will remain entitled to the unused balance of parental leave.

#### *Payment during parental leave*

Payments during parental leave consists of an allowance covered by the social security system.

Currently, the social allowance during parental leave depends on the maternity leave allowance option chosen by the mother. The mother has two social allowance options, namely:

- Option one, which comprises a payment of 100% of earnings during maternity leave, which then translated into the first six weeks of parental leave (eight weeks in the case of multiple births) also paid at

100% of the average earnings with no cap, and the remaining 26 weeks of parental leave paid at 60% of the mother's or the father's earnings (also with no cap) depending on who takes the remaining parental leave.

- Option two, which is selected in cases where the mother chooses to combine maternity and parental leave entitlements (i.e., 52 weeks of leave in total), comprises a social allowance of 80% of covered earnings during maternity leave, which then translated into a parental leave allowance that is also paid at 80% (with no cap) of covered earnings over the entire parental leave period.

The allowance paid by social security consists of the employee's covered earnings averaged over the previous 12 months minus social contributions and is subject to income tax.

Effective 26 April 2023, the social security parental leave allowance will change to 70% of covered earnings (minus the corresponding social contributions) for the entire duration of parental leave. However, if the mother applies for parental leave within 21 days after the child's birth (or the adoption or fostering of a child), the allowance will be 81.5% of the employee's covered earnings during maternity leave and the parental leave. Parental leave allowances are subject to income tax.

### *Drawing on parental leave*

Effective 26 April 2023, the entitlement to parental leave may be taken continuously or in part (up to five parts).

Currently, up to a 32-week period can be taken as one continuous period of leave, or broken into 4 separate parts, provided two of them are taken continuously and are no shorter than eight weeks.

## **Paternity leave**

Effective 26 April 2023, the period over which fathers may take their two weeks (unchanged) of social security paid paternity leave (*urlop ojcowski*) will be reduced from up to age 24 months following the birth or the final decision on the adoption of a child to 12 months (but only until an adopted child reaches the age of 14 years).

## **Unpaid carer's leave**

Effective 26 April 2023, an unpaid carer's leave (*urlop opiekuńczy*) will be introduced, according to which employees will be annually entitled to up to five days of unpaid leave to care for a family (i.e., a son, a daughter, a mother, a father, a spouse) or other household member for serious medical reasons.

### *Requesting carer's leave*

The employee's request must be submitted to the employer at the latest one day in advance.

### *Employee entitlement during carer's leave*

While carer's leave is unpaid, the leave counts as a period of employment in terms of the employee's other entitlements (e.g., accrual of annual leave).

## ***Force majeure leave***

Employees will be annually entitled to two days or 16 hours of partially paid *force majeure* leave for family emergencies caused by illness or accident. Employees on *force majeure* leave are entitled to 50% of their earnings paid by their employer.

## **Employer Actions**

Effective 26 April 2023, new legislation amends parental leave provisions of the law, increasing the length of parental leave by nine non-transferable weeks among other amendments. The new legislation also shortens the timeframe over which paternity leave may be drawn; introduces five days of unpaid carer's leave, and two days of *force majeure* leave paid at 50% of earnings by the employer.

Effective 26 April 2023, the social security parental leave allowance will also change to 70% of covered earnings (minus the corresponding social contributions) for the entire duration of parental leave. However, if the mother applies for parental leave within 21 days after the child's birth (or the adoption or fostering of a child), the allowance will be 81.5% of the employee's covered earnings during maternity leave and during the parental leave. Parental leave allowances remain subject to income tax.

Considering these family-related leave changes, employers must familiarize themselves and comply with the new provisions of the law both in terms of granting the leaves and in terms of paying for the new *force majeure* leave.

Employers are advised to revise their leave policies and related employee communication materials.

Employers who top-up social allowances paid during maternity leave and/or parental leave to ensure 100% of the employee's earnings during these leaves, will need to make payroll adjustments to reflect the changes made to social allowances.

## **Underlying legislation**

The changes were introduced by the Act of 9 March 2023 amending the Act - Labor Code and some other acts ([Ustawa z dnia 9 marca 2023 r. o zmianie ustawy - Kodeks pracy oraz niektórych innych ustaw](#)), which was published in the Official Journal (*Dziennik Ustaw*) on 4 April 2023. According to Article 46, the Act shall enter into force 21 days after its promulgation.

The Act implements, two EU Directives, namely:

- [Directive \(EU\) 2019/1152 of the European Parliament and of the Council of 20 June 2019 on transparent and predictable working conditions in the European Union](#); and
- [Directive \(EU\) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU](#).

# Peru

## Peru: Bill proposes leave for dysmenorrhea or menstrual discomfort

Published 3 April 2023

On 16 March 2023, the private members' Bill 4505 /2022-CR that would entitle employees to one day of leave per month for leave for dysmenorrhea or menstrual discomfort was introduced to Congress. Menstrual leave would be made up for by working hours as mutually agreed between the employer and the employee.

Bill 4505 /2022-CR, Law that establishes the right to one day off per month for students and workers in the public and private sectors due to dysmenorrhea or discomfort menstrual ([Proyecto de Ley 4505/2022-CR, "Ley que establece el derecho a un día libre al mes para las estudiantes y trabajadoras del sector público y privado por dismenorrea o malestares menstruales](#)) is currently under review by congress.

The objective of the Bill is to ensure health during menstruation, and therefore, the physical and psychological state to ensure employee productivity and student performance.

The Bill would entitle private and public sector employees (regardless of the type of employment agreement), as well as students, to one day of leave per month for dysmenorrhea or menstrual discomfort. Employee entitlement would entail prior coordination with the employer, in addition to the provision of a medical certificate indicating the diagnosis of dysmenorrhea or similar.

Employers would be prohibited from reducing the pay of an employee exercising their entitlement to menstrual leave.

# Türkiye

## Türkiye: Statutory retirement age criteria abolished; government incentivizes rapid rehiring of retiring employees

Published 15 April 2023

Effective 3 March 2023, new legislation amending the Social Insurance and General Health Insurance Law ([Sayılı sosyal sigortalar ve genel sağlık sigortası kanunu](#)) abolished the age criteria for social retirement benefits. The first resulting early retirement pension benefits will be paid as of April 2023.

### Eligibility for pension benefits

According to the provisions of the new legislation, employees who were insured by the Social Security Agency (*Sosyal Güvenlik Kurumu, SGK*) prior to or on 8 September 1999; who have a minimum contribution period of 20 years for women or 25 years for men; and whose number of days of social contributions range between 5,000 days and 5,975 days (depending on the date their employment started) are eligible for social pension benefits.

Previously, as detailed below, different retirement age criteria applied depending on the date an employee was first insured under the social security system, and on their gender.

### Severance pay due upon retirement

The change is likely to affect employers as a result of the expected increase in the pace of employees' retirements for whom employers must meet mandatory severance payment requirements.

According to [Article 14 of Law No. 1475](#), retiring employees receive severance pay equal to 30 days' of gross pay for each full year of service with their last employer up to a maximum of TRY 19,213 as of 1 January 2023 (up from TRY 15,371 in 2022) for each year of service. As such, the number of employees retiring each year affects employers' operating budgets.

Employers' severance pay obligation upon retirement remains unchanged.

### Social contributions for employees working after retirement

Current legislation does not prohibit a retired individual to work beyond retirement, and their social retirement benefits are not affected if they work after retiring; unless, they work in the public sector.

Currently, the employer social contribution rates are somewhat higher for employees already receiving social retirement benefits, and the employee's social contribution rate is lower than the rate due by non-retired employees.

Given this additional potential increase in employer expenses resulting from the Amendment of the Social Insurance and General Health Insurance Law of 1 March 2023 (EYT), the Ministry of Finance will grant employers a 5-percentage point reduction in their social contribution rate due for their employees who are paid social pension benefits as a result of the abolition of the retirement age criteria by the EYT.

Rehired employees who benefit from this social contributions support, that will be paid for by the Ministry of Finance, will no longer be eligible for the discount, should they resign after being rehired.

## Previous retirement age criteria

Different retirement ages apply depending on the date an employee first entered the social security system, and on their gender.

Previously, employees who entered the social security system between 8 September 1999 and 30 April 2008 become eligible for social security pension benefits at the age of 60 years (for men) or 58 years (for women) provided one of the following criteria was met:

- They had 7,000 days of social contributions for old-age survivors and long-term disability insurance paid on their behalf; or
- They had 25 years of social security coverage and at least 4,500 days of social contributions for old-age survivors and long-term disability insurance paid on their behalf.

Under certain conditions (i.e., in the case of a disability as well as individuals who are 55 years of age or older and are found to be aging prematurely), individuals are eligible for early retirement pension benefits.

## Underlying legislation

The changes were introduced by the Law 7438 on the Amendment of the Social Insurance and General Health Insurance Law of 1 March 2023 ([Sayılı sosyal sigortalar ve genel sağlık sigortası kanunu 375 Sayılı Kanun Hükmünde Kararnamede Değişiklik Yapılmasına Dair Kanun](#)), commonly referred to as EYT, which was published in the Official Gazette (*Resmi Gazete*) on 3 March 2023, and came into effect on the same day.

# United Kingdom

## United Kingdom: Employment Tribunal awards for injury to feelings and psychiatric injury increased by up to 14%

Published 4 April 2023

On 24 March 2023, the Presidents of the Employment Tribunals published revised bands of compensation for injury to feelings in discrimination cases, referred to as Vento bands.

In light of the current inflationary environment, the new compensation award limits have predictably been increased by much more than in previous years, with the increases ranging between 11.1% and 14.0%.

According to the [Presidents' Guidance](#), the new bands apply to claims presented on or after 6 April 2023, and as follows:

- A lower band of GBP 1,100 to GBP 11,200 (up from previously GBP 990 to GBP 9,900) for less serious cases in which the discriminatory act is an isolated or one-off incident;
- A middle band of GBP 11,200 to GBP 33,700 (up from previously GBP 9,900 to GBP 29,600) for cases that do not merit an award in the upper band; and
- An upper band of GBP 33,700 to GBP 56,200 (up from previously GBP 29,600 to GBP 49,300) for the most serious cases.

The Guidance does provide for awards exceeding GBP 56,200 (up from previously GBP 49,400) for the most exceptional case.

---

**Disclaimer:** Alliant Global Compliance publications are designed to provide general information and guidance but have not been customized for any client's particular situation. They are based on information available at the time they are published. Alliant Global Consulting does not provide legal advice, legal interpretation, or legal opinions. Please consult a local legal counsel for such services. These articles are provided on an "as is" basis without any warranty of any kind. Alliant Insurance Services, Inc. disclaims any liability for any loss or damage from reliance on these publications.