Alliant Global Services

Global Knowledge Center – Legal & Regulatory Updates

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Contents

Australia

Australia: Safe Work Australia releases Code of Practice for managing workplace psychosocial hazards

Published on 22 September 2022

On 2 August 2022, SafeWork Australia published its Model Code of Practice: Managing psychosocial hazards at work, which provides guidance on how to comply with recent work health and safety (WHS) legislation and regulations and includes steps for managing workplace risks to psychological health.

Under WHS legislation, an employer's duty of care entails doing everything that can reasonably be done to eliminate or minimize employee exposure to psychosocial hazards and risks.

Employers Concerned

All employers have a duty of care responsibility, and therefore are concerned by the publication of the Model Code of Practice: Managing psychosocial hazards at work, which provides guidance on how to comply with recent work health and safety (WHS) legislation and regulations.

Psychosocial hazards

Safe Work Australia considers anything that could cause psychological harm (e.g., harm someone's mental health) a psychosocial hazard. Common psychosocial hazards at work include:

- job demands
- low job control
- poor support
- lack of role clarity
- poor organizational change management
- inadequate reward and recognition
- poor organizational justice
- traumatic events or material
- remote or isolated work
- poor physical environment
- violence and aggression
- bullying
- harassment, including sexual harassment, and
- conflict or poor workplace relationships and interactions

Legal effectiveness

The Model Code of Practice must be approved as a code of practice by the jurisdiction applicable to the employer to have legal effect.

However, under WHS legislation and regulations, duty of care applies to all employers, and entails doing everything that can reasonably be done to eliminate or minimize employee exposure to psychosocial hazards and risks. The Code provides practical guidance on how to comply with the legal standards imposed by the model WHS Act and Regulations.

Therefore, even if an employer's jurisdiction has not yet adopted the new Model Code of Practice, it is important to review the code to determine whether reasonably practicable risk controls are in place.

Employer Actions

Safe Work Australia's Model Code of Practice spells out a number of steps that employers must take to manage psychosocial hazards at work, namely:

- Identify the psychosocial hazard
- Assess and prioritize the psychosocial hazards and risks
- Identify and implement risk and hazard control measures
- Review the effectiveness of control measures
- Record risk management process and outcomes, including consultations with workers
- Conduct WHS investigations

Employers should review the code to determine whether reasonably practicable risk controls are in place in accordance with their duty of care under WHS legislation and regulations.

Employers are advised to update their WHS and HR policies to ensure the existence of framework for managing psychosocial hazards.

Belgium

Belgium: Maximum tax-favorable employer-paid allowance to cover work-from home expenses increased

Published on 6 September 2022

Effective 1 September 2022, the maximum tax-favorable employer-paid flat-rate allowance to cover employees' work-from-home office expenses (*l'indemnité de bureau)* is increased from EUR 140.15 to EUR 142.95 – the maximum amount considered by tax authorities and by the National Social Security Office (*Office National de Sécurité Social, ONSS*) as exempt from both income tax and social contributions.

An employer may grant a fixed office allowance to employees who work from home structurally and on a regular basis for a substantial part of their working time. The ONSS clarifies that by structural and on a regular basis, it means any arrangement that is equivalent of 1 working day per week for both part-time and full-time workers.

In addition to the office allowance, employers may grant WFH employees:

a maximum of 20.00 EUR /month for the use for professional purposes of a private internet connection and subscription; and

a maximum of EUR 20.00 /month for the use for professional purposes of a private computer with peripherals, or a maximum of EUR 10.00 per month for the use for professional purposes of a second monitor, personal printer and/or scanner, without a private computer (i.e., EUR 5.00 per month per peripheral equipment for a maximum of 3 years).

Underlying legislation

The change was introduced by the Intermediate administrative instructions for employers – ONSS – 2022/3 (*Intermediate administrative instructions for employers – ONSS – 2022/3*).

With regard to the qualification of the provision of equipment and reimbursements within the framework of the costs related to working at home, the NSSO completely follows the principles established by mutual agreement contained in the Ministry of Finance Circular 2021/C/20 relating to employer interventions for teleworking (*Circulaire 2021/C/20 relative aux interventions de l'employeur pour le télétravail*) of 26 February 2021.

Belgium: Conditions for paid educational leave in the Brussels region temporarily relaxed to include remote training

Published on 29 September 2022

Effective 29 September 2022, and applicable to all educational leaves between 1 September 2022 and 30 June 2023, all accredited training hours delivered remotely can be considered as hours of actual attendance for determining an employee's paid educational leave time. This will include any exchange between educational staff and the student that takes place between 1 September 2022 and 30 June 2023.

Additionally, all training hours remotely delivered between 1 September 2022 and 30 June 2023 for which the educational establishments cannot certify an employee's remote participation are deemed to have been followed by the employee.

In the private sector employees are entitled to take employment protected educational leave for accredited training, and to be absent from work with continued pay (up to a maximum amount). Employers may, but are not obligated to, limit the employee's pay during educational leave to the maximum amount.

The employer can request, from the applicable regional authority, a reimbursement intended to offset expenses incurred by the employer for an employee's paid educational leave (remuneration + employer's social security contributions). This intervention takes the form of a fixed amount of currently EUR 21.30 per hour of educational leave. For the 2022-23 academic year a draft royal decree provides for the capping of the gross amount of remuneration that an employee receives for paid educational leave at EUR 3,170 per month.

Employers and employees concerned

All private sector employers are concerned by changes to the provisions of paid educational leave, as are the following employees:

Full-time employees, and the following part-time employees

- Those employed for at least four-fifth time;
- Those employed within the framework of a variable work schedule;
- Those employed within the framework of a fixed schedule at least half-time and working at most four-fifth time, but only for vocational training followed during normal working hours.

Furthermore, individuals who provide work services under the authority of one or more other persons other than by virtue of an employment contract, e.g., apprentices are considered as employees.

Useful information on educational leave

Educational leave is planned in the company by the works council or, failing this, by agreement between the employer and the union delegation, or, failing the latter, by mutual agreement between the employer and the worker.

An employer cannot reject employees' request for paid educational leave, but the planning of the leave must be done in agreement with the employer. However,

- An Employer with less than 20 employees, may object to a concurrent absence of more than 10% of its workforce; but at a minimum one employee's request for educational leave must be approved.
- An employer with 20 to 50 employees, may object to a concurrent absence of more than 10% of its workforce who carry out the same function; but at a minimum one employee's request for educational leave must be approved.
- An employer with more than 50 employees, may object to a concurrent absence of more than 10% of its workforce who carry out the same function, provided one employee per function is authorized to be on educational leave, and provided that the works council has previously defined each function.

Educations leave requests must be submitted by the employee to the employer by 31 October of each at the latest.

Underlying legislation

Regional regulations apply to an employee's request for paid educational leave, i.e., regulation of the region where the employee's company unit is located during their training. The decision to relax the conditions for paid educational leave was confirmed by Decree of the Government of the Brussels-Capital Region of 1 September 2022 temporarily relaxing certain conditions for granting paid educational leave (*Arrêté du Gouvernement de la Région de Bruxelles-Capitale du 1er septembre 2022 assouplissant temporairement certaines conditions d'octroi du congé-éducation payé*), which was published in the Official Journal (*le Moniteur belge*) on 28 September 2022.

Employer Actions

The scope of private sector employees' entitlement to employment protected educational leave for accredited training, and to be absent from work with continued pay (up to a maximum amount) is temporarily expanded to include accredited training that is delivered remotely.

This change comes into effect on 29 September 2022; concerns Brussels region employers and applies to all educational leaves taken between 1 September 2022 and 30 June 2023.

An employer cannot reject employees' request for paid educational leave, but the planning of the leave must be done in agreement with the employer. Certain aggregated criteria based on employer size may allow employers to object to certain requests for taking educational leave.

Resources

Information regarding employer applications for reimbursements by the Brussels Region of remunerations costs incurred during employees' educational leave can be found at Employer Reimbursements (*Remboursement aux employeurs*).

Belgium: Saturdays will no longer be considered as a business day, affecting statutory delays, including for termination notices

Published on 17 September 2022

Effective 1 January 2023, as a result of recent reforms of the Civil Code, Saturdays will no longer be considered as a working day.

In the context of employment agreements, there are a number of instances where the Labor Code expresses a timeframe or a deadline in number of working days, as opposed to calendar days, e.g., deadline for providing a medical certificate to an employer for a sick leave, the case of certain contractual payments, or the timing for sending a termination notice to an employee. The most consequential impact of this change pertains to the timing of termination notices, which is detailed below.

Employers and Employees concerned

The change in the provisions of the Civil Code potentially affect all employers and employees.

Timing of termination notices

Article 1.7 Section 3 of Law of 28 April 2022 pertaining to Book 1 "General provisions" of the Civil Code (*Loi du 28 avril 2022 contenant le livre 1 " Dispositions générales " du Code civil)*, which was published in the Official Journal (*le Moniteur belge*) on 1 July 2022, directly impacts the timing that an employer must comply with when sending a termination notice.

According to Article 37 of the law of 3 July 1978 on employment contracts (*Loi du 3 juillet 1978 relative aux contrats de travail*), a registered letter that serves as a notification of termination notice is deemed to have been received on the third working day following the day on which it was sent. In other words, currently if the employer intends a termination notice to start on the Monday of the following week, the registered notice of termination letter must be sent on the preceding Wednesday at the latest.

Starting 1 January 2023, for contracts concluded on or after 1 January 2023, the registered letter must be sent one day earlier, namely on the preceding Tuesday at the latest for the notice period to commence on the following Monday.

The new provisions apply for contracts concluded on or after 1 January 2023. Indeed, Article 3 of the amending law provides a derogation for contractual agreements concluded prior to the effective date of the law's provisions, which will remain subject to the legislation in force on the day of their conclusion.

Underlying legislation

Law of 28 April 2022 pertaining Book 1 "General provisions" of the Civil Code (*Loi du 28 avril 2022 contenant le livre 1 " Dispositions générales " du Code civil)*, which was published in the Official Journal (*le Moniteur belge*) on 1 July 2022.

Article 3 of the amending law provides a derogation for contractual agreements concluded prior to the effective date of the law's provisions, which remain subject to the legislation in force on the day of their conclusion.

Employer Actions

Effective 1 January 2023, Saturdays will no longer be considered as a working day.

Consequently, while the statutory delay for sending a termination notice remains 3 working days, for all employment contracts concluded on or after 1 January 2023 the calculation of the statutory delay may no longer include Saturdays as a working day.

Therefore, employers must time the sending of termination notice letters to an employee based on the date their employment contract was concluded.

Canada

Canada: Ontario employers with 25 or more employees must have a policy on electronic monitoring of employees

Published on 12 September 2022

Effective 11 October 2022, all employers who electronically monitor their employees and who had 25 or more employees on 1 January 2022 must have in place a written electronic monitoring policy.

Effective 1 January 2023, all employers with 25 or more employees on 1 January of the year must have a written policy in place before 1 March of that year, and through the end of the year.

The above employer obligations were introduced by Bill 88, An Act to enact the Digital Platform Workers' Rights Act, 2022 and to amend various Acts,

Number of employees

The calculation of the number of employees on 1 January 2022 is not limited to full-time employees and must include part-time and casual employees. The total must include employees from all the employer's operating locations in the province.

Also, it is the 1 January headcount snapshot of the calendar year that serves as criteria. That is:

If, on 1 January of a given year, an employer does not meet the minimum of 25 employees, this will be the employer's status for the remainder of the calendar year, even if the headcount increases later in that year.

If the headcount later decreases below the threshold of 25 employees.

Electronic monitoring policy content

An employer's written policy on the electronic monitoring of its employees must at a minimum include the following information:

- A statement on whether the employer electronically monitors its employees.
- Where the employer engages in electronic monitoring of employees.
- How the employer may monitor employees.
- Conditions under which the employer may monitor its employees.
- How the information obtained by the employer via electronic monitoring may be used by the employer.
- The date of the policy and the dates of any amendments to the electronic monitoring policy.

The electronic monitoring policy must apply to all employees. However, different provisions of the policy may apply to different groups of employees.

Related employer obligations

The employer must provide its employees the written electronic monitoring policy within 30 calendar days of the employer's statutory obligation to have a policy in place, or within 30 calendar days of the date on which an existing policy is amended.

Employers must retain a copy of every policy on electronic monitoring mandated by the province's Employment Standards Act (EST) for 3 years beyond its effectiveness.

Underlying legislation

The requirement to implement an electronic monitoring policy by employers with more that 25 employees on 1 January of any given year, was introduced by Bill 88, An Act to enact the Digital Platform Workers' Rights Act, 2022 and to amend various Acts, which received Royal Assent on 11 April 2022.

Employer Actions

All employers who electronically monitor their employees and who had 25 or more employees on 1 January 2022 should start formulating their policy before the deadline of 11 October 2022.

Moving forward, Effective 1 January 2023, all employers with 25 or more employees on 1 January of the year must have a written policy in place before 1 March of that year, and through the end of the year.

The minimum information to be provided by the electronic monitoring policy is specified by law, as indicated above.

Employers must deliver the policy to all employees within 30 calendar days of its creation of subsequent amendments.

A copy of any written policy created by the employer in compliance with the ESA must be retained for at least 3 years beyond the date of its effectiveness.

Resources

The Government of Ontario's Your Guide to the Employment Standards Act, now includes a new sections on: Written policy on electronic monitoring of employees.

Canada: One-time holiday for Queen Elizabeth II's funeral announced by most jurisdictions

Published on 15 September 2022

Federal

On 13 September 2022, the government declares federal holiday for Queen Elizabeth II's funeral on 19 September 2022.

Provincial

British Columbia

In a press release British Columbia's Premier announced that a national day of mourning to mark Queen Elizabeth's funeral will be observed by provincial public-sector employers on 19 September.

Quebec

Quebec premier, François Legault, announced that the Queen's funeral would be marked with a "day of commemoration", but no holiday.

Ontario

Ontario Premier announced a provincial day of mourning, but not a holiday.

Ontario residents are being encouraged to observe a moment of silence at 1 p.m. ET on the day of the funeral.

Alberta

Alberta has declared the Queens Funeral 19 September a provincial day of mourning. However, it is not a statutory holiday.

Newfoundland and Labrador

The Newfoundland and Labrador government has declared 19 September a one-off provincial holiday for provincial government offices, schools and other entities will be closed (i.e., public sector employees).

The government's press release states: "Businesses and other organizations in the province are encouraged to commemorate Her Majesty in a manner that works best for them,"

Nova Scotia

Nova Scotia announced in a press release that 19 September will be recognized as a provincial holiday (i.e., for public sector employees). Government offices and schools will be closed but health care services will continue.

New Brunswick

New Brunswick will have a temporary provincial holiday to mark the Queen's funeral. Government offices and schools will be closed for the day.

Prince Edward Island

Prince Edward Island will treat 19 September as a statutory holiday for all provincially regulated workers (i.e., in both public and private sectors), the government announced in a news release.

Manitoba

Manitoba won't have a statutory holiday and will instead have a day of mourning, according to the government's news release.

Saskatchewan

In a news release the government of Saskatchewan designated 19 September as a "day in tribute and commemoration of Queen Elizabeth II," but it is not a provincial statutory holiday.

Territories

Nunavut

Government of Nunavut announced in its press release of 15 September that all government offices and agencies will close for Queen Elizabeth II's funeral on 19 September 2022. The announcement states that private employers are welcomed to observe the holiday but are not required to.

The Northwest Territories

In a media statement, the Northwest Territories Premier confirmed that 19 September 2022 will not be a holiday.

The Yukon

The Yukon announced in a news release that it will be observing the National Day of Mourning as a one-time holiday for territorial public sector employees.

Employer Actions

All Prince Edward Island employers must grant 19 September 2022 as a onetime statutory holiday to their employees.

China

China: Jiangsu Province incentivizes employers paying social contributions during employees' maternity leave

Published on 26 September 2022

Jiangsu Province employers who pay social contributions during the maternity leave of their employees who give birth to their second or third child on or after 10 February 2022 are entitled to a corporate social insurance subsidy.

The corporate social insurance subsidy paid to the employer by the Jiangsu Province for up to 6 months starting from the month of the child's birth, corresponds to:

- 50% of the employer social contributions paid for employees on maternity leave for the birth of their second child; and
- 80% of the employer social contributions paid for employees on maternity leave for the birth of their third child.

Qualified employers in Jiangsu Province may apply for corporate social insurance subsidies to the local human resources and social security bureau.

Underlying legislation

The corporate social insurance subsidies was introduced by Notice of the Provincial Department of Human Resources and Social Security, the Provincial Department of Finance, the Provincial Health and Health Commission, the Provincial Medical Security Bureau, and the Provincial Government Affairs Office on matters related to corporate social insurance subsidies during maternity leave (**关于**产假期间企业社会保险补贴有关事项的通知), which was released by the provincial government on 12 May 2022.

Resources

Application Roster for Enterprise Social Insurance Subsidy During Maternity Leave (*产假期间企业社会保险补贴申请花名册*)

France

France: Short-time work program for COVID-19 vulnerable employees reinstated, starting 1 September 2022

Published on 6 September 2022

Effective 1 September 2022 through 31 January 2023 at the latest, the government reinstates the short-time work (STW) program (*le dispositif d'activité partielle*) for COVID-19 vulnerable employees who are unable to telecommute.

Employees on partial activity (*salariés en activité partielle*), i.e., with a loss of salary due to the reduction of their working hours, are compensated by the employer, who then receives partial activity allowance (co-financed by the unemployment insurance agency (*Union nationale interprofessionnelle pour l'emploi dans l'industrie et le commerce, UNEDIC*) and the government budget at 67% and 33%, respectively.

Employees concerned

Employees who meet the following criteria are eligible for partial activity supported by the STW program:

- Are in a medically vulnerable situation as spelled out listed by Decree n° 2021-1162 of 8 September 2021;
- Are assigned to a workstation likely to expose them to a high viral load; and
- Are unable to fully work remotely or benefit from enhanced protection measures.

Employees who are severely immunocompromised may be placed on partial activity under more flexible conditions, as well as medically vulnerable employees who can justify a contraindication of vaccination via a medical certificate.

Pay and government allowance during partial activity

The pay due to the employee by the employer during partial activity is set at 70% of the employee's gross hourly pay per hour not worked (i.e., 84% of the employee's hourly net salary), within the limit of 4.5 times the hourly minimum wage (*le Salaire minimum de croissance. SMIC*) with a minimum of EUR 8.76 (*except in special cases*), as of 1 September 2022.

The partial activity allowance reimbursed to the employer under the STW program is set at 60% of the gross hourly reference remuneration retained within the limit of 4.5 SMIC, with, except in special cases, an hourly rate minimum of EUR 8.76 (as of 1 September 2022). The employer therefore bears a balance of the amounts paid to the employee on short-time work.

Underlying legislation

The extension of the short-time work program was introduced the retroactive 2022 Finance Law n° 2022-1157 of 16 August 2022 (*Loi n° 2022-1157 du 16 août 2022 de finances rectificative pour 2022*), published in the

Official Journal (*Journal officiel de la République française, JORF*) on 17 August 2022. Decree No. 2022-1195 determining the amounts and calculation method of the partial activity allowance for employees recognized as vulnerable and presenting a proven risk of developing a serious form of COVID-19 infection (*Décret n° 2022-1195 du 30 août 2022 relatif à la détermination des taux et modalités de calcul de l'indemnité et de l'allocation d'activité partielle pour les salariés reconnus comme vulnérables et présentant un risque avéré de développer une forme grave d'infection au virus de la covid-19*) which was published in the JORF on 31 August 2022, determines the partial activity allowance amount.

Resources

Partial activity allowance estimator for employers (in French)

Request for prior authorization and compensation for employees' partial activity (in French)

France: Tax-favorable ceiling for payments of employees' personal and childcare expenses increased

Published on 13 September 2022

Retroactively effective 1 January 2022, the maximum tax-favorable annual amount of employer payments for employees' personal and/or childcare service expenses, is increased from EUR 1,830 to EUR 2,265.

Employer-paid personal and childcare services

According to Articles L. 7233-4 to L. 7233-9 of the Labor Code, an employer or the Social and Economic Committee (*Comité social et économique, CSE*) may financially support an employee's personal and/or childcare service expenses, provided the service provider is outside an employee's home (e.g., elderly and/or at home childcare, housekeeping and home maintenance, handyman services, yard work, at home tutoring, at home meal preparation, or shopping delivery.

This financial benefit may be reserved for certain employees according to criteria freely defined either by the employer or by the CSE. However, company executives may only receive such benefit provided that all employees receive the same benefit under the same conditions.

The financial assistance may be paid either directly to the service provider based on an invoice; or pre-paid to the employee via the universal service employment cheque (*chèque emploi-service universel, CESU*).

Tax and social contribution treatment of the benefit

This employer-provided benefit is exempt from social contributions, CSG, CRDS and from personal income tax provided it does not exceed the cost of the service incurred by the employee and its annual amount does not exceed a given ceiling.

Underlying legislation

The change was introduced by Decree of 9 August 2022 setting the maximum amount of financial aid from the social and economic committee and that of the company paid to employees provided for in article L. 7233-4 of the labor code (*L'arrêté du 9 août 2022 fixant le montant maximum de l'aide financière du CSE et celle de l'entreprise versées en faveur des salariés prévue à l'article L. 7233-4 du code du travail*), which was published in the Official Journal (*Journal officiel de la République française, JORF*) on 18 August 2022.

India

India: Salary forfeiture or employment bond payments are tax-exempt for the employer

Published on 27 September 2022

On 3 August 2022, the Ministry of Finance Circular No. 178/10/2022-GST was published in the Official Gazette, providing clarification on the forfeiture of salary or payment of a bond amount provided for in employment contracts in the event an employee voluntarily terminates an employment contract before a minimum agreed period of employment.

While the Circular does not comment on the validity of employment bond clauses in employment agreements, it highlights on-boarding expenses incurred by an employer upon recruitment of a new employee and the employer's expectation of a minimum employment period; and argues that employment bond clauses (i.e., salary forfeiture, or recovery of a bond amount) of employment contracts are intended to discourage early attrition and its impact on the employer.

The Circular clarifies that the recovery of amounts under the employment bond clause of an employment contract is a penalty to discourage frivolous job applicants. Therefore, the recovery of such amounts is exempt from taxation.

Italy

Italy: Fringe benefit tax-exemption limits more than doubled, and may cover employees' household utility expenses

Published on 5 September 2022

Retroactively effective 1 January 2022, the value of goods and services provided by employers to their employees, as well as the amounts paid or reimbursed to employees towards their household utility expenses, i.e., water, electricity, and natural gas up to an annual limit of EUR 600 per employee (up from previously EUR 258,23) is exempt from income tax under Article 51, Paragraph 3 of the Consolidated Law on Income Tax (*Testo unico delle imposte sui redditi,* TUIR).

Employers Concerned

All employers and their employees are potentially concerned by the changes in tax-exempt benefit ceilings introduced by the

Underlying legislation

Law no. 142, of 21 September 2022, converting Decree-Law no. 115 of 9 August 2022 on urgent measures on energy, water emergency, social and industrial policies (*Decreto-legge 9 agosto 2022, n. 115, recante misure urgenti in materia di energia, emergenza idrica, politiche sociali e industriali, e' convertito in legge con le modificazioni riportate in allegato alla presente legge*) commonly referred to as the Aiuti-bis Decree, was published in the Official Gazette no. 221 of 21 September 2022, and came into force the following day. The measures of the law have varying dates of effectiveness, including retroactively effective provisions.

Italy: Government approves reference model for tele-medicine services provided in a home setting

Published on 9 September 2022

The Minister of Health published a decree approving the Organizational Guidelines Containing the Digital Model for the Implementation of Homecare (*Linee guida organizzative contenenti il modello digitale per l'attuazione dell'assistenza domiciliare*), which serve as a reference model for the provision of various telemedicine services in a home setting, via innovative at-home patient care processes and multidisciplinary professional collaboration.

In sum, the guidelines describe how digitalized healthcare will work, including information on remote monitoring of therapies and the control of vital and clinical parameters of patients through sensors, but also the remote evaluation of the correct use of aids, orthoses and prostheses during normal life activities conducted within a home environment.

Digitalization of Homecare

The guidelines set the telemedicine services that can be provided as part of home-care services, namely: tele-visit, medical teleconsultation, teleassistance, telemonitoring, remote patient monitoring, and telerehabilitation. These are defined below.

Tele-visits

Tele-visits (*Televisita*) are understood as remote provision of medical services by a physician, which may result in prescription of medicines or clinical tests. Tele-visits are limited to monitoring of patients with an existing diagnosis that has been made during an in-person visit.

Medical tele-consultations

Medical teleconsultations (*Teleconsulto medico*), are defined as medical acts where a healthcare professional communicates remotely with one or more physicians to discuss a patient's status, based primarily on the sharing (via telematic means) case-related clinical data, reports, images, audio-video; and

Medical-health tele-consultations

Medical -Health Teleconsultation (*Teleconsulenza medico-sanitaria*) – provisions of a healthcare services, that is not necessarily medical, but is carried out remotely by two or more individuals and entailing:

- a request for support from a healthcare professional during the performance of healthcare activities; followed by
- a video call for the healthcare professional to provide clinical decisions making instructions and/or instructions for correctly performing health-related activities on the patient.

Teleassistance

Teleassistance (*teleassistenza*), provision of assistance via video communications between the healthcare professional and the patient (or their caregiver), and may include sharing of data, reports, or images.

Telemonitoring

Telemonitoring (*telemonitoraggio*), is health monitoring that allows for remote detection and transmission on a continuous basis of vital and clinical parameters, by means of sensors interacting with the patient.

Remote medical control

Tele-control (*telecontrollo*) is characterized by a periodic series of patient contacts with the physician, who controls the clinical evolution, by means of the video call and the sharing of the patient's clinical data collected throughout calls. This is for pathologies already diagnosed.

Telerehabilitation

Telerehabilitation (*teleriabilitazione*), consists in remote provision of services by health professionals, that are intended to enable, restore, improve, or in any case maintain the psychophysical functioning of people of all age groups, with disabilities or disorders, congenital or acquired, transient or permanent, or at risk of developing them.

The health professionals identify innovative ways for at-home care of the patient, and resort to multi-professional and multidisciplinary collaboration between the various professionals, as needed.

Underlying legislation

Decree of 29 April 2022 Approval of the organizational guidelines containing the "Digital model for the implementation of home care", for the purpose of achieving Milestone EU M6C1-4, referred to in the Annex to the implementation decision of the ECOFIN Council of 13 July 2021, approving the assessment of the Plan for Italy's recovery and resilience (*Decreto 29 aprile 2022 Approvazione delle linee guida organizzative contenenti il «Modello digitale per l'attuazione dell'assistenza domiciliare», ai fini del raggiungimento della Milestone EU M6C1-4, di cui all'Annex alla decisione di esecuzione del Consiglio ECOFIN del 13 luglio 2021, recante l'approvazione della valutazione del Piano per la ripresa e resilienza dell'Italia*), which was published in the Official Gazzette (*Gazzetta Ufficiale*) on 24 May 2022.

Netherlands

Netherlands: Applications for changing disability (WGA) and sickness (ZW) own-risk insurance status due before 2 October 2022

Published on 15 September 2022

Employers who wish to change their Partially Disabled Workers (WGA) and Sickness Benefits (ZW) self-insurance status as of 1 January 2023 must submit their application to Tax Authorities by 2 October 2022.

Employer obligations and options related to WGA and ZW insurance are spelled out below. Detailed information can be found in Section 7.7 of the 2022 Wage taxes Handbook of July 2022 (*Handboek Loonheffingen 2022 Versie juli 2022*).

Employer obligations and options

Employees are entitled to sickness (ZW) and disability (WGA) insurance. For these insurances employers can pay social contributions to the Employee Insurance Agency (*Uitvoeringsinstituut Werknemersverzekeringen, UWV*). Alternatively, employers may choose to become an own risk-insurer (*eigenrisicodrager, ERD*) and pay reduced social contributions.

An employer can apply for or terminate the ERD status on 1 January or 1 July of each year. The employer's change of status application form must be received by the tax authorities no later than 13 weeks before the commencement date of the new status.

In the case of new employers, the ERD can take effect immediately upon the employment of their first employee who is registered with the UWV.

Own-risk insurer for Partially Disabled Workers (WGA)

An employer can opt for self-insurance, or for coverage of risk by an insurance company for the *WGA*. In the former case the employer bears the risk of partial occupational disability and temporary full occupational disability for all its employees or insures these risks. The employer also bears the risk for death benefits to surviving dependents of permanent employees receiving a WGA benefit who are covered under an own risk insurance option.

As a WGA own-risk insurer an employer pays lower contributions towards the Return-to-Work Fund (*Werkhervattingskas, Whk*), because they do not have to pay the WGA national insurance component of the contributions.

Own-risk insurer for the Sickness Benefits Act (ZW)

An employer can opt for self-insurance or coverage of risk by an insurance company for ZW (sickness benefits), in which case the employer is liable in the event of an employee becomes entitled to sickness benefits.

As a ZW own-risk insurer, an employer pays lower social contributions, i.e., the basic contribution plus the Whk without the part due for flexible sickness benefit (ZW-Flex). Additionally, under the own risk insurance option the employer also bears the risk for death benefits to surviving dependents of employees receiving sickness benefit.

Employer Actions

Employers who wish to change their WGA and /or ZW own risk insurance status, i.e., to become an own risk insurer or who wish to terminate their own-risk insurer status (ERD) as of 1 January 2023 must ensure that their application(s) is(are) submitted to the Tax Authorities before 2 October 2022.

Resources

Application forms for WGA and ZW ERD status modification:

- Application for or termination of Self-insurance under the WGA (*Aanvraag of beëindiging Eigenrisicodragerschap voor de WGA*)
- Declaration of guarantee for the application for self-insurer status for the WGA (*Garantieverklaring bij de aanvraag eigenrisicodragerschap voor de WGA*)
- Application or termination Self-insurance status for the ZW (*Aanvraag of beëindiging Eigenrisicodragerschap voor de ZW*)
- Model Working Conditions Declaration for self-insurance under the Sickness Benefits Act (ZW) (*Model Arboverklaring eigenrisicodragerschap Ziektewet (ZW)*)

Netherlands: Discounts on premiums of group basic health insurance abolished, as of 1 January 2023

Published on 28 September 2022

Effective 1 January 2023, the premium discount for group basic health insurance (*collectiviteitskortingen op de basiszorgverzekering*) of up to 5% is abolished. In other words, health insurers will no longer be authorized to give group discounts on basic health insurance.

It is worth noting that while the discount on basic health insurance is abolished, the discounts on supplementary packages (e.g., prevention, reduction of absenteeism, debt prevention problems, or dental insurance) remain permitted.

Employers and employees concerned

Employers offering group health insurance to their employees and their employees may be affected by the announced change. Affected employers may have to modify their agreements with insurance companies.

Underlying legislation

The change was introduced by the Act of 11 May 2022, amending the Health Insurance Act in connection with the abolition of the group discount (*Wet van 11 mei 2022, houdende wijziging van de Zorgverzekeringswet in verband met het afschaffen van de collectiviteitskorting*), which was published in the Official Journal (*Staatsblad*) on 18 May 2022.

Employer Actions

Employers offering group health insurance will need to take into account that their employees will no longer benefit from reduced premiums. Employers are advised to update employee communication materials to inform their employees in advance of the change and its potential contribution to changes in 2023 health insurance premiums.

Employers may also wish to make adjustments to their employee incentives packages to offset any impact the change in premiums might have on their employees' net pay.

Additionally, arrangements made with insurance companies may need to be reviewed and revised accordingly.

Resources

Additional information can be found at the Government's Intercranial Square (*Ondernemersplein*)

Netherlands: Work Where You Want Bill reviewed the Senate

Published on 29 September 2022

On 27 September 2022, the Senates carried out its preliminary review of the Bill to amend the Flexible Working Act (*Wet flexibel werken*) commonly referred to as the Work Where You Want Bill (*Werk waar je wilt*) and is preparing its preliminary report. The Bill was approved by the Lower House of Parliament on 5 July 2022 and is pending Senate approval prior to coming into effect.

The Flexible Working Act regulates employees' entitlement in terms of working hours, working time and workplace. The Work Where You Want Bill is intended to amend employees' entitlement to adapt the workplace and working hours or working time.

Key proposed amendments

According to the provisions of the Bill, if an employee wants to change their place of work, they could provide a request to the employer, provided that the employee has been employed by the employer for at least 6 months.

The amending Bill would then obligate employers with 10 or more employees to, under certain conditions, engage in consultations with the employee and accept the employees' requests for changes to their place of work, which must be within the European Union (EU); at the employee's home; or on the employer's premises. The employer would have to weigh its business interests against the interests of the employee, and in light of the outcome of this comparison, may refuse the employee's request if business interests outweigh the interests of the employee.

Proposed legislation

Bill of Members Van Weyenberg and Smulders amending the Flexible Working Act in connection with the promoting flexible working towards workplace (*Voorstel van wet van de leden Van Weyenberg en Smeulders tot wijziging van de Wet flexibel werken in verband met het bevorderen van flexibel werken naar arbeidsplaats*).

Singapore

Singapore: Ministry of Manpower introduces new measures and increases accountability of companies and their executives for falling short on workplace safety measures

Published on 7 September 2022

Effective 1 September 2022 through 28 February 2022, according to a Ministry of Manpower (MOM) press release of 1 September 2022 entitled Heightened Safety Period Measures to Address Spate of Workplace Fatalities, employers must adhere to a six-month "Heightened Safety" period, subject to extensions, during which:

The Ministry of Manpower (MOM) may debar companies from employing new foreign employees for up to 3 months and require Chief Executives to take personal responsibility for rectifying workplace safety and health (WSH) lapses; and

Companies in the construction, manufacturing, marine, process or transport and storage industries; and all companies in other industries, which use heavy or industrial vehicles are required to carry out a mandatory Safety Time-Out (STO) to review their safety procedures and complete the Safety Time-Out activities according to a released STO Checklist , and will be debarred from employing new foreign employees for 1 month for STO non-compliance.

Additionally, MOM will reimburse SMEs who need support for enhancing their WSH processes and practices by fully reimbursing the costs of StartSAFE Program consultants who can support employers in identify WSH risks and in designing and implementing effective WSH practices.

Separately, MOM introduces measures specifically tailored for the construction sector, starting 1 October 2022.

Employers concerned

The workplace safety and health measures issued by MOM concern all employers. Sanctions apply to any company found to have serious WSH lapses.

Employer Actions

Employers in the construction, manufacturing, marine, process or transport and storage industries; and all companies in other industries, which use heavy or industrial vehicles must conduct a mandatory Safety Time-Out (STO) to review their safety procedures and complete the Safety Time-Out activities outlined in a STO Checklist.

To avoid new sanctions related to lapses in workplace safety and health conditions or poor risk mitigation measures all employers are advised to conduct WSH inspections.

The potential sanctions imposed by MOM are:

- Debarring companies from employing new foreign employees for up to 3 months;
- Holding CEOs to personally accountable to MOM and responsible for any rectification measures.
- Requiring an external audit of a company's WSH processes.

Resources

- MOM Safety Time Out Requirement
- MOM Safety Time Out Checklist

Slovakia

Slovakia: Domestic business trip allowances and meal voucher amounts increase

Published on 22 September 2022

Effective 1 September 2022, Ministry of Labor, Social Affairs and Family increased the amounts of domestic business trip meal allowance, which in turn increase the minimum and maximum employer contributions towards employee meal vouchers, meals, and/or equivalent cash benefits.

Domestic business trip allowances

Effective 1 September 2022, per Measure No. 281/2022 of the Ministry of Labor, Social Affairs and Family of the Slovak Republic on the amounts of meal allowance No 281/2022 (*Ministerstva práce, sociálnych vecí a rodiny Slovenskej republiky No. 281/2022 z 25. júla 2022)*, sets increased meal allowance amounts for domestic business trips, as follows:

- EUR 6.40 for business trips lasting 5 hours to 12 hours
- EUR 9.60 for business trips lasting 12 hours to 18 hours
- EUR 14.50 for business trips of over 18 hours in duration

Prior to this latest change, effective 1 May 2022, per Measure No. 116/2022 of the Ministry of Labor, Social Affairs and Family of the Slovak Republic on the amounts of meal allowance (*Ministerstva práce, sociálnych vecí a rodiny Slovenskej republiky o sumách stravného, No. 116/2022*), domestic business travel meal allowance amounts were:

- EUR 6,00 for business trips lasting 5 hours to 12 hours
- EUR 9.00 for business trips lasting 12 hours to 18 hours
- EUR 13.70 for business trips of over 18 hours in duration

Meal vouchers

Employers must arrange for meals, offer meal vouchers, or cash equivalent benefits to employees.

The employer must bear 55% of the costs of meal vouchers at a minimum. The minimum value of meal vouchers is set by the government, in that it is pegged to the amounts of meal allowances for domestic business trips. Therefore, meal voucher values increase in tandem with domestic business trip allowances increases.

As of 1 September 2022, the minimum and maximum amounts of the employer contribution to the employee´s meal voucher are:

- The maximum value of meal/meal voucher is EUR 6.40
- The minimum value of meal/meal voucher is EUR 4.80
- The maximum employer contribution to meals/meal vouchers is EUR 3.52 EUR.
- The minimum employer contribution to meals/meal vouchers is EUR 2.64

Previously, starting 1 May 2022, the minimum and maximum amounts of the employer contribution to the employee´s meal voucher were:

- Minimum EUR 2.48
- Maximum EUR 3.30

Note that the employer can also provide a financial contribution from the social fund, without limit. Meal vouchers and a financial contribution for meals are provided in advance.

Employer Actions

Effective 1 September 2022, employers must ensure that domestic business trip meal allowance are adjusted to reflect their new increased amounts, which are:

- EUR 6.40 for business trips lasting 5 hours to 12 hours
- EUR 9.60 for business trips lasting 12 hours to 18 hours
- EUR 14.50 for business trips of over 18 hours in duration

Regarding employee meal benefits, employers must ensure that payroll staff take into account the new minimum and maximum employer contribution limits towards meal vouchers. For employees having selected their meal benefits in the form of meal vouchers, employee data on pay and attendance must be provided to the meal voucher provider. Employers must as usual report meal benefit amounts or the amounts of issued vouchers to tax and social security authorities as part of routine payroll reporting.

Background

Prior to 1 March 2021, an employer had to provide cash benefits for meals only to employees:

- who perform work at the workplace under conditions which exclude an obligation of the employer to provide meals (in the form of main course or meal voucher);
- to whom, the employer cannot provide meals at all – in a catering facility / catering facility of another employer, nor in the form of meal vouchers regardless of the conditions under which work is performed or of the workplace;
- who, on the basis of a medical certificate from specialist physician, cannot use any of the forms of meals provided to the employees due to health reasons; and

- who perform home-office or telework, and their employer cannot provide them with meals from the employer's catering facility or catering facility of another employer, or when a meal in form of main meal or meal voucher would be contrary to the nature of home-office, or telework.

From March 1, 2021, it became possible to provide cash benefits to employees beyond the previously required conditions, except in the case of employers who provide meals in their own catering facility or at the catering facility of another employer.

From March 1, 2021, employers had to allow their employees to choose between a meal voucher or a financial contribution (cash benefit) for meals.

The employee is then bound by the chosen option for the period of 12 months. Until the selection is made by the employee, the employer, may unilaterally decide to provide the employee with meals in the form of a meal voucher or a cash benefit.

The amended provision of the Labor Law state that the details of the selection and implementation of the employer's obligation to provide meals or to provide a cash benefit (i.e., financial contribution) for meals based on the employee's selection may be spelled out by the employer in its internal regulation. In other words, the employer may lay down in the internal regulation all rules concerning not only the choice of employees between these options, but also its implementation (i.e., the method of providing the meal vouchers and payment of the financial contribution).

Resources

Tax administration guidelines including guidance on the treatment of meal benefits during sick leave or annual leave:

- Methodological guidelines for accounting for the meal allowance as amended by Appendix no. 1 (*Metodické usmernenie k účtovaniu príspevku na stravovanie v znení dodatku č. 1*)
- Methodological guideline for calculating the meal allowance (*Metodické usmernenie k účtovaniu príspevku na stravovanie*)

Switzerland

Switzerland: Women's statutory retirement age set to increase following national referendum

Published on 26 September 2022

On 25 September 2022, as part of a national referendum, Swiss voters approved by a narrow margin of 50.57% the government's pension reform plan detailed in AVS 21: the project submitted for vote (*AVS 21 : le projet soumis en votation*) which entails an amendment of the federal law known as AVS 21. Key pension reform measures include:

- An increase women's retirement age;
- Flexible retirement; and
- Tax measures to finance the reforms.

Increase in women's retirement age

A key measure of the pension reform comprises an increase women's statutory retirement age from currently 64 to 65 years, aligning it with the men's retirement age.

The AVS 21 reform provides for transition measures aimed at mitigating the effects of the increase in women's statutory retirement age, once the changes come into effect.

The transitional generation would comprise 9 years and concern women aged 55 years or more when the reforms come into effect. In other words, assuming the provisions of AVS 21 come into effect in 2024, then women born between 1961 and 1969 would be covered under the reforms transition measures.

Flexible retirement

In addition to the increase in women's statutory retirement age, the government's pension reform plan includes various incentives to work beyond the retirement age, making retirement will more flexible (i.e., between 63 and 70, or 62 and 70 for the women in the transitional generation), by allowing for a combination of work and partial retirement benefit paid beyond the statutory retirement age.

Financing of the reforms

A separate referendum vote on financing the pension reform by raising the standard value added tax (VAT) rate from 7.7% to 8.1% and the reduced VAT rate from 2.5 to 2.6% obtained more than 55% approval.

Next steps for entry into effect

On 7 December 2021, Parliament accepted the AVS 21 reform. The National Council (Lower House of Parliament) and the State Council (Upper Hoarse of Parliament) have adopted the amendments of the AVS law (LAVS) and the Federal decree of 17 December 2021 on the additional financing of the AVS by means of an increase in VAT (*l'Arrêté fédéral du 17 décembre 2021 sur le financement additionnel de l'AVS par le biais d'un relèvement de la TVA*).

With the measures now approved by the national referendum of 25 September 2022, the Federal Council will be setting the date of entry into effect of the reform, which is expected to be 1 January 2024.

United Kingdom

United Kingdom: 19 September 2022 designated as a Bank Holiday

Published on 10 September 2022

In a press release of 10 September 2022, the government designated 19 September 2022, the day of Queen Elizabeth II's State Funeral, as a bank holiday for the entirety of the UK bank holiday to mark the last day of the period of national mourning.

There is no statutory entitlement to time off for bank holidays, but employers may include bank holidays as part of a worker's leave entitlement.

The government's press release states:

> *"The government cannot interfere in existing contractual arrangements between employers and workers. However, we would expect that many workers will be able to take the day off on the bank holiday. We also expect employers to respond sensitively to requests from workers who wish to take the day of the funeral off work."*

Resources

Information on pay and time off on bank holidays

United Kingdom: Reversal of National Insurance contribution increase imminent

Published on 23 September 2022

On 22 September 2022, the Treasury introduced the Health and Social Care Levy (Repeal) Bill into the House of Commons. The provisions of the Bill would reverse the increase to National Insurance Contributions (NIC) that came into effect on 6 April 2022.

The Bill is currently undergoing its first reading in the House of Commons and is expected to come into effect 6 November 2022.

Context

As part of the previous government's plan to finance the National Health System (NHS) and social care, effective 6 April 2022, national insurance contributions (NIC) were increased by 1.25%, both for employers and employees (i.e., employers' rate increased from 13.8% to 15.05%, and employees rate increased from 12.00% to 13.25%).

The NIC increase was to be replaced by a new Health and Social Care Levy of 1.25% to finance the National Health System (NHS) and later the Social Care system. Meaning. Starting 6 April 2023, the contribution rates were to return to their previous levels, but a new standalone 1.25% Health and Social Care Levy was to apply to earnings and/or profits that are subject to NIC.

The new government has scrapped these plans, in parallel to reducing the NIC rates to their previous levels. The government has confirmed that the financing of the health and social care services will remain unaffected by the reversal but will come from the government's tax revenues.

The Bill addresses one of many measures announced as part of the new government's mini-budget, referred to as The Growth Plan 2022, which was released on 23 September 2022.

United Kingdom: Government's new mini-budget includes employment and benefits related measures

Published on 25 September 2022

On 23 September 2022, the new government released its mini-budget, referred to as The Growth Plan 2022. The mini-budget includes a series of reforms and tax cuts intended to stimulate growth. Key employment and pensions related measures included among the announcements relate to:

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

These measures are detailed below.

Social contributions

The government's mini-budget includes changes to National Insurance Contributions (NIC), and to the forthcoming Health Care Levy.

National Insurance Contributions

On 22 September 2022, prior to the release of its mini-budget, the Treasury introduced the Health and Social Care Levy (Repeal) Bill to Parliament to reverse the increase to National Insurance Contributions (NIC) that came into effect on 6 April 2022. The repeal is expected to come into effect starting 6 November 2022.

Health Care Levy

The new standalone 1.25% Health and Social Care Levy was planned to apply to earnings and/or profits that are subject to NIC for financing of the health and social care services has been cancelled.

Income tax

Basic income tax rate

The basic income tax rate paid on current earnings between GBP 12,571 and GBP 50,270 would be 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 be abolished. That is:

- The 45% higher rate of income tax on applicable in England, Wales and Northern Ireland taxpayers' annual NSND above GBP 150,000 would be 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 apply.

IR35 Repealed

According to 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 be repealed. This would imply that from 6 April 2023, worker providing services via an intermediary would self-determine their employment status and pay the corresponding NICs and income tax.

DC Pension charge caps

In its Mini-Budget the government announced that it will put forward draft regulations to provide defined contribution (DC) pension plans the flexibility to invest in the UK's innovative businesses and productive assets, with the goal of expanding opportunities for higher returns for plan members. The government intends to achieve this goal by removing the cap on performance fees from the occupational DC pension charge.

The charge cap is a government-set annual limit that can be charged to DC plan members in default arrangements used for auto-enrolment. The cap has been in place since 6 April 2015 and is currently 0.75% of amounts manages under a default arrangement. The cap applies to all plan administration and investment charges but excludes transaction costs.

Company Share Option Plans (CSOP)

According to the Mini-Budget, two changes would be made to CSOP. These changes would be introduced via the 2023 Finance Bill and are detailed below.

Increase in the employee option limit

Starting 6 April 2023, qualifying companies could issue up to GBP 60,000 of new CSOP options granted per employee, up from the current maximum employee share option limit based on market value at grant of GBP 30,000.

Share class requirement rules amended

Restrictions on CSOP share classes would be relaxed to improve the alignment of CSOP rules with those of Enterprise Management Incentive (EMI) plans – a tax-favorable employee share option plan available for qualifying businesses. EMIs are mainly suited for smaller fast-growing businesses. As such, the relaxed restrictions would expand access by these smaller fast-growing businesses to CSOPs.

Specifically, the current requirement that any CSOP shares be in a share class that is "worth having", either by being 'open market shares' majority-held by outside investors; or by giving employees control of the company would be removed for share options granted on or after 6 April 2023.

United Kingdom: OTS call for evidence on tax and social security implications of remote work

Published on 28 September 2022

On 27 September 2022, the Office of Tax Simplification (OTS) last updated its Call for Evidence: Review of hybrid and distance working for its impending review on the tax implications of the emerging trend following the COVID-19 pandemic in remote and hybrid work, including cross-border work.

During the pandemic, many countries' tax authorities applied a flexible approach to cross-border considerations (e.g., corporate [permanent establishments, employees' permanent residence) – an approach that is unlikely to continue post pandemic.

The call for evidence lists a number of questions for consideration by employers, but also by the self-employed and for businesses dealing with permanent establishment and corporate residence issues. According to the call for evidence with regard to employees (as opposed to the self-employed) the primary focus of the review will be on:

- Employees of UK companies working overseas – excluding employees on expatriate assignments;
- Employees of overseas employers working in the UK – again, excluding employees on expatriate assignment; and
- Hybrid and distance/home working within the UK.

Employer responses should be submitted by Friday 25 November 2022 to ots@ots.gov.uk. The resulting OTS report is expected in early 2023.

Resources

Scope of the OTS impending review is available in the OTS Policy paper: Review of hybrid and distance working scoping document, published 27 July 2022.