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In the coming year one of the biggest challenges for HR practitioners will be increasing levels of consumer price inflation. The effects of the oil price collapse will have worked its way out of the annual price index figures and employees will begin to expect compensation for factors such as rising housing and food costs.

Looking beyond 2016 there is the inevitable cyclical downturn which hits all economies every 7–11 years. The first signs of this will begin to appear later in 2016 — but there is unlikely to be a rapid drop in GDP growth like in 2007. By 2021 a new global upturn will expose a much more fundamental problem. The demographic ‘time bomb’ will become truly problematic as a greater number of economically inactive people — such as the retired — will have to be supported by a narrowing core of people in work. Automation will also be moving out of manufacturing into every aspect of our daily lives — and this will remove many jobs in the service sector.

FedEE’s recent survey revealed that the current top HR priorities include data protection and career development. The most challenging of these could well be data protection because, following several high-profile hacking incidents, there is sure to be greater restrictions on the security of employee and customer data. The recent safe harbor decision of the European Court of Justice (see our newswire dated October 8th 2015) means the transmission of data across national borders will no doubt be subject to more bureaucratic procedures and penalties for non-compliance — with petty strictures threatening to impede company operations.

Career development will be a major issue as opportunities dwindle during the next downturn. This will also affect the HR function itself, irrespective of the economic climate, as the focus of HR turns towards technical as well as human resources, legal compliance and reward structures become more complex, and the international dimension grows in importance. Back in 1970 there were just 7,000 multinationals. By the mid-1990s there were 38,000, and today there are over 100,000. Yet the way that HR

professionals are trained and develop their know-how has not kept pace with such changes. The authority of HR advice is also likely to be further challenged in the courts (see our newswire dated October 22nd 2015). That is why FedEE is setting up a working group to examine ways to train, develop and gain recognition for a new-style International HR Practitioner.

Australia: Model terms on annual leave finalised

Further to its June decision on annual leave clauses in modern awards (see our newswire dated June 17th 2015), Australia's Fair Work Commission has now finalised its model terms in relation to excessive leave, cashing out of leave and granting leave in advance.

With the introduction of these new model terms, employers will be able to oblige employees who have accrued more than eight weeks of annual leave to take some of that leave. They must, however consult with the employee first. Employees will be entitled to cash out up to two weeks of annual leave every year, provided they retain a minimum of four weeks' leave. They will also be able to take leave in advance of accrual, with the agreement of their employer.

It will now be up to interested parties to make submissions to the Commission on which modern awards should include these model terms. A hearing on this issue will be held on November 23rd 2015.

European Union: Sickness absence — a cultural disease?

The incidence of sickness absence for work-related medical conditions varies a great deal across the European Union, as does the number of working days lost. The latest Labour Force Survey data is from 2013 and unfortunately excludes Germany and the Netherlands.

The data suggests that work-related health problems may be largely cultural (a Scandinavian phenomenon), health-system quality related (France, Switzerland and Austria) and linked to the generosity of the welfare system, rather than arising from actual differences in the standard of health and safety in workplaces. Employees in poorer countries also clearly cannot afford to take time off when their jobs are at risk and income levels low.

The highest incidence of sickness absence for work-related reasons was in Finland, where 25.8% of workers were absent at some point during the year. Other high incidence rates were in Sweden (21.1%), Austria (15.3%), Poland (14.0%), France (12.3%), Norway (11.9%) and Switzerland (11.6%). At the other extreme, workers were absent for work-related reasons at rates of only 1.6% in Ireland, 1.7% in Romania and 2.2% in Turkey. The average duration of work-related absences also varies significantly from 22.3 days in the economically struggling state of Greece, to 97.4 days in Romania — indicating that Romanian workers generally only take time off for serious health conditions.

European Union: The dynamics of EU immigration flows

The number of first residence permits issued by European Union (EU) countries to third country nationals declined by 50,000 last year, compared with 2013. However, it still amounted to a total of 2.3 million permits. Although 75% of permits were issued by the six most populous countries (the UK, Poland, Germany, France, Italy, Spain) the ratio of permits per head of population was highest in Malta, Cyprus and Sweden.

Only 26% of permits were issued for employment reasons. But more than 300,000 of these permits were issued to Ukrainians alone — mainly to work in Poland. The other most popular national origins for work-

related residence visas were India (55,000) and the United States (41,000).

There are no 2014/15 EU statistics available yet for movement of EU citizens to work in another EU country. However, in the first quarter of 2015, 1.9 million people born in another EU country were working in the UK alone. The inflow from the rest of the EU to the UK in 2014 was 268,000 and two thirds of these came for work reasons.

India: New rights for women under draft Factories Act amendments

The Indian government recently published draft amendments to the Factory Act (1948). The most significant changes concern the employment of women, the definition of 'factory' under the Act, and provision for the establishment of a new national health and safety regulator.

For the first time women will be allowed to work in factories at night, provided that the factory provides night crèches, 'protection from sexual harassment' and ensures the safety of female workers both on the factory premises and during their journeys between work and home. Under the terms of the draft law, women will be required to give their written consent to working at night before they may be permitted to work a night shift.

The draft law also states that pregnant women will not be allowed to work for a total period of 16 weeks before and after child birth, of which at least eight weeks must be before their child is due. However this would not necessarily be on the basis of maternity leave as the employer would only be 'encouraged to provide paid maternity leave' and not required to provide it. Furthermore, the draft amendments change the definition of 'factory' to include any manufacturing premises in which forty or more workers work (or have

worked in the previous 12 months), as well as any premises in which dangerous or hazardous manufacturing processes are being undertaken. In the current Act, 'factory' is defined as any premises in which either ten workers are employed if a manufacturing process is being carried on with the aid of power, or 20 workers are employed if a manufacturing process is being carried on without the aid of power. This means thousands of factories in India would no longer fall under the scope of the Act.

Finally, the draft law includes the provision for a new regulator to be established by central government. This will be known as the Occupational Safety and Health Board of India.

Italy: Recent Supreme Court decisions concerning unfair dismissal

Italy's Supreme Court recently agreed with Palermo's Court of Appeal that a company's decision to dismiss an employee for watching pornographic DVDs at work was unlawful.

In this case an employee had been found to be in possession of pornographic DVDs at work. He admitted to watching these DVDs during his lunch breaks, but denied watching them during working hours. The company suspected that he also watched the films during working hours, but there was no proof of this. Both the Court of Appeal and Supreme Court agreed that without such proof the company was not justified in dismissing the employee. [Corte di Cassazione, sentenza n. 20728 – 2015]

Earlier this year, the Supreme Court ruled differently in relation to an employee who was dismissed for smoking cannabis during working hours. The Court considered that the dismissal of this employee was proportionate to his behaviour — given the specific tasks he was required to perform and the fact that the

employer needed to trust that these tasks would be properly undertaken. [Corte di Cassazione, sentenza n. 20543 – 2015]

New Zealand: Failure to give clear reasons for termination results in successful unfair dismissal claim

An interesting case that recently went before the Human Rights Review Tribunal of New Zealand illustrates how important it is for employers to be clear about the reason for dismissal at the time notice of termination is given and to follow the correct dismissal procedures. The case also demonstrates how significant wording can be in documents such as application forms.

The employee in question worked as a Service Technician for Schindler Lifts NZ Ltd. He suffered from a slight tremor in his hands — particularly the left hand. He had not declared this to his employer as he did not consider the condition to affect his ability to carry out the job. During his probationary period another employee allegedly saw the employee failing to observe safety procedures and also noticed his left hand shaking.

Following this incident the employee was given notice of termination. There was much confusion, however, as to the reason for dismissal. The employee and his representative claimed the reason given during the termination meeting was safety concerns linked to his shaking hands. The employer claimed that the employee's shaking hands were not the reason for termination, but that dismissal was due to a breach of safety rules. The employee, however, stated that he had not been told at the time of the alleged incident that he had done anything wrong. None of the documentation clearly indicated the reason for termination.

During the hearing the employer had claimed that the employee had misrepresented himself in his job application by not disclosing his medical condition. The job application contained the questions 'Do you have a medical or physical problem that may affect your work performance or attendance?' and 'Do you suffer from any injury or ailment or other disability which may adversely affect your regular attendance at work or adversely affect your work performance or adversely affect the safety of yourself or others?', to which the employee had answered 'no'. The Tribunal found that the employee was justified in answering 'no' to these questions as they required him to make a self-assessment, which he did without intention to deceive.

Concerning the confusion over the stated reason for termination, the Tribunal determined that the reason given at the termination meeting was safety concerns. Although the employer now appeared to claim different reasons for termination, these could not be taken into consideration — what was important was what had been said at the termination meeting. The employer was found to have unfairly dismissed the employee on the grounds of disability and was ordered to pay damages of approximately 40,000 New Zealand dollars (26,700 US dollars). [[2015] NZHRRT 45]

Spain: Implementation of Directive on intra-corporate transfers

Spain has become the first European Union member state to implement EU Directive 66/2014 on intra-corporate transfers (ICTs).

Multinational companies transferring non-EU directors, specialists or trainees to a unit of the company located in Spain may now apply for ICT visas. These will allow the non-EU intra-company transferees to stay in Spain for up to three years in the case of directors and specialists, and up to one year in the case of trainees — instead of just 90 days. Those issued an ICT visa in

Spain will also be able to move to other EU countries with more ease during the validity of the visa.

An intra-company assignee will only be eligible for an ICT visa if they have worked for the sending company for at least three months before being transferred to Spain. They must also have a university degree or at least three years' experience in a similar position.

In addition, holders of an ICT visa issued in another EU member state will be able to work in Spain for up to 90 days in each 180-day period without requiring further permission. If such ICT holders wish to work in Spain for a longer period they will have to apply for a Mobile ICT visa at the Dirección General de Inmigración.

All EU member states — with the exception of the United Kingdom and Ireland, which are not part of the Schengen zone, and Denmark which has opted out — have until November 29th 2016 to implement the Directive on intra-corporate transfers. It is likely that France and the Czech Republic will be the next countries to do so.

USA: Employers in California to face strict equal pay rules

From January 1st 2016 employers in California, USA, will be subject to new, stricter rules on equal pay.

Under the California Fair Pay Act, which was signed by Governor Jerry Brown on October 6th 2015, employers will be required to pay the same rates to men and women doing 'substantially similar work'. The work should be considered similar 'when viewed as a composite of skill, effort and responsibility, and performed under similar working conditions'.

Any employer paying a male and female employee different rates for similar work will have to demonstrate that the difference is based on at least one of the

following four factors: seniority; merit; quantity or quality of production; or another bona fide factor such as education or experience — provided it is in no way related to sex, it is related to the position in question and it is consistent with business necessity.

The law also states that employers may not prohibit employees from disclosing their own pay rates or inquiring about another employee's pay rate.

Pay, Tax and Benefit Trends

CHILE: According to Chile's National Institute of Statistics (INE), the nominal rate of the cost of labour (ICMO) decreased by 0.2% in August 2015 compared with the previous month. Compared with August 2014, however, the ICMO increased by 6.4%. The total number of paid hours worked per employee also decreased in August 2015 by 0.2% when compared to the previous month. This was a result of a 0.3% decrease in normal hours offset by a 1% increase in extraordinary hours. When compared with August 2014, total paid hours worked per employee decreased by 0.6%.

DENMARK: Denmark's Ministry of Employment has submitted for consultation a draft law that would return the rules on the reporting of gender-based wage statistics back to those that were introduced in 2006. Under the last government the requirement for companies to provide gender-specific wage statistics to 'Statistics Denmark' or an employers' organisation was extended to include all companies with at least ten employees (including at least three men and three women). The new government, however, wishes to return to the previous rules, under which the requirement to report gender-specific wage statistics applied only to companies with at least 35 employees — including at least 10 men and 10 women.

EUROPEAN UNION: Average hourly labour costs increased by 1.6% in the euro area and by 1.9% in the EU-28 over the year from Q2 2014 to Q2 2015, according to Eurostat, the statistical office of the European Union. The greatest annual increases in hourly labour costs occurred in Latvia (+7.9%), Romania (+7.7%), Bulgaria (+6.8%) and Estonia (+5.5%), whilst decreases were recorded in Greece (-2.9%), Cyprus (-1.2%) and Italy (-0.4%).

INDONESIA: The Indonesian government has announced that from now on changes in the country's 36 provincial minimum wage rates will be set each year by a fixed formula, drawing on local price inflation and GDP figures. This will prevent politicians using minimum wages as a vote-gathering device in local elections. The government is also establishing a programme of soft loans for redundant workers who wish to set up export-orientated businesses.

MALAYSIA: The 2016 budget announced recently by Malaysia's Prime Minister, Najib Abdul Razak, includes a proposal to raise the national minimum wage from the current 900 ringgit (209 US dollars) to 1,000 ringgit (233 US dollars) per month, with effect from July 1st next year. The highest rate of income tax will also be raised from 25% to 26–28%.

NEW ZEALAND: A Bill that will simplify New Zealand's tax system has passed its first reading in parliament. The Bill includes provisions to allow for electronic communication between the Inland Revenue and tax payers. It also proposes a revision of the rules on employee share schemes. The Bill will now be considered by the Finance and Expenditure Committee and be subject to a public consultation.

ROMANIA: With effect from January 1st 2016, social security contributions in Romania will be deductible for corporate income tax purposes up to 5% of payroll rather than 2%. This is just one of a number of

changes to the tax rules introduced by the country's new Tax Code.

SWEDEN: On October 15th 2015 Sweden signed a social security treaty with the Philippines. The Agreement will coordinate both countries' schemes for old-age, survivors and disability pensions and work injury compensation. It will determine whether a person should be insured for these benefits in Sweden or the Philippines and ensure no person moving between the two countries is deprived of the benefits they are owed nor has to pay social security contributions in both countries. On October 19th 2015 Sweden also signed a tax treaty with Saudi Arabia for the avoidance of double taxation and prevention of tax evasion. Both agreements must now be approved by the legislature of each country.

UK: The UK government has announced that new requirements for large employers to report their gender pay gap will include information on bonuses. In March 2015 the government confirmed that they would use their powers under the Equality Act 2010 to require mandatory gender pay gap reporting. The new regulations are expected to be introduced in the first half of 2016 and will affect employers with at least 250 employees. Further details of the proposed regulations are currently under consideration following a period of consultation which ended on September 6th 2015.

USA: A draft four-year agreement between General Motors and the United Auto Workers Union (UAW) has been announced. Details of the agreement, which covers 52,600 auto workers in the USA, have still not been revealed, but it is understood to be similar to the recently ratified deal between the UAW and Fiat/Chrysler. This included fast-track early retirement for upper-tier older workers and a 3-4,000 US dollar signing bonus. Although there is a commitment to phase out the current two-tier wage structure over eight years, the new Fiat/Chrysler agreement removes the

upper limit on hiring lower-cost second-tier and temporary workers during the interim period.

Other Global HR News in Brief

CHINA: China currently has 371,000 industrial enterprises, of which 57% are privately owned and 18% are classified as medium-to-large enterprises (MLE). However the MLE account for 63% of all profits generated. The main problem for China is the growth of loss-making enterprises — up from 52,000 in August 2014 to 59,000 in August this year. The losses are not primarily due to start-ups, because 19% of such enterprises are MLE, and the losses are substantial — accounting for a total of 603,630 million renminbi (95,039 million US dollars) in August 2015.

DENMARK: From January 1st 2016 employers in Denmark may no longer include in an employment contract a clause stating that the agreement will automatically terminate when the employee reaches the age of 70. Furthermore, any such clause agreed to before January 2016 will be considered null and void. In order to remain legally compliant, employers should ensure all their employment contracts and other employment documents are amended to remove such clauses by December 31st 2015 at the latest.

EUROPE: Only 1.3% of the 167.9 million people employed in EU countries during Q1 2015 registered as unemployed in Q2 2015, although 1.6% of employed persons became economically inactive. Of those registered as unemployed in Q1, 18.6% did obtain jobs, but almost as many (16.8%) fell into economic inactivity. Once economically inactive few individuals move back onto the unemployment register or obtain jobs — at least in the formal economy.

INDONESIA: Indonesia's Ministry of Manpower has signed a decree that reverses some of the more stringent immigration regulations that were introduced

earlier this year. As a result, non-resident foreign directors and commissioners are once again not required to obtain a work permit (IMTA) and companies do not have to ensure they employ at least 10 local workers for every one foreign worker. Furthermore, business travellers are no longer required to obtain a temporary work permit when they visit their representative or branch office in Indonesia for meetings, training, speeches and seminars — only a business visa is required for these activities.

KOREA: The president of South Korea, Ms Park Geun-hye, is trying to push through major changes to make labour laws more flexible. These include making it easier for companies to fire under-performers, outsource activities, base wages on merit and shorten work hours in response to changes in demand. These reforms are opposed by the trade unions and the opposition, New Politics Alliance for Democracy (NPAD), but Park is relying on strong public support for a measure that would increase economic growth and generate new jobs. Draft legislation to introduce the reforms is likely to be debated by parliament before the end of the year.

NETHERLANDS: On October 19th 2015 the Dutch Ministry of Social Affairs and Employment opened a new funding round for 'sustainable employability'. Until November 13th 2015, companies may apply to the Agency for Social Affairs and Employment (Agentschap SZW) for funding to help finance a project aimed at improving the health, commitment and development of their employees. Each applicant may be awarded up to 50% of the costs associated with the project, with a maximum grant set at 10,000 euros. Total funds available are limited to 22 million euros and applications will be processed in order of their receipt.

USA: A number of recent and impending changes concerning employment have been announced in New York, USA. The Fair Chance Act became effective in New York City on October 27th. This amends the

Human Rights Law (NYCHRL) and now prohibits most employers from inquiring about the criminal background of job applicants until after a conditional offer of employment has been made. From January 1st next year the Affordable Transit Act will allow city commuters in companies employing 20 or more people to set aside on a tax free basis up to 130 US dollars per month for bus or subway travel and 255 US dollars per month for parking. At State level, Governor Andrew Cuomo has just signed eight female equality bills which address such issues as pay equity and discrimination on the grounds of family status or pregnancy.

ZIMBABWE: A high court challenge is being made by the Zimbabwe Employers Confederation to a Labour Act amendment introduced in September. The amendment overturned a Supreme Court ruling on July 17th which gave employers the right to terminate employees with due notice and without a severance package. The amendment makes it very difficult to terminate any employee, except by mutual agreement. Moreover, companies that did terminate workers following the Supreme Court decision are also caught by a retrospective clause obliging them to compensate former employees through two weeks' pay for every year served.

Dates for your diary:

November 13th 2015: Deadline for applications for funding for 'sustainable employability' in the **Netherlands** (see above news story for more information).

November 27th 2015: FedEE Global's Fellowship meeting takes place in London, **UK**.

November 30th 2015: First of a new annual non-working public holiday in **UAE** for Martyrs Day.

December 31st 2015: By this date all individual contracts in **Denmark** should be amended to remove any clause stating that the agreement will automatically terminate when the employee reaches the age of 70. Members should seek appropriate legal advice.

Latest news for business travellers:

There remains significant disruption to rail and road transport around the borders of a number of countries in **Europe** as a result of an influx of asylum seekers seeking transit to other European countries. Travellers should monitor local media and check with transport service providers for updates.

Staff of the railway company Trenord in Lombardy, **Italy** will be striking on Friday, November 6th 2015 between 9am and 5pm local time, causing disruption to train services. On Thursday, November 12th 2015, staff of Trenitalia in Piemonte will be striking for 24 hours. Local public transport strikes are also scheduled to take place on November 6th in Modena, Reggio Emilia, Piacenza, Ripalimosani and Crotona, on November 9th in Bologna and Ferrara, on November 10th in Lazio and Genova and on November 11th in Pisa, Lucca and Livorno.

Ngurah Rai airport in Bali, **Indonesia** has now reopened and operations have resumed after it was closed on Tuesday, November 3rd due to volcanic ash which made conditions unsafe for flying.

Flights between the **UK** and Sharm el Sheikh in **Egypt** have been suspended temporarily amid security fears. Flights are expected to resume on Friday, November 6th with additional security measures in place.

A general election has been scheduled to take place on November 8th 2015 in **Myanmar**. Travellers may experience disruptions due to demonstrations or political events and are urged to exercise caution during the electoral period.

A state of emergency has been declared in the **Maldives** for an initial period of 30 days due to a perceived national security threat.

FedEE news:

PROFESSIONAL DEVELOPMENT: Following requests made by several FedEE Fellows, we have been considering how individuals could be better prepared for the role of International HR practitioner and given appropriate professional recognition. We have had initial talks with a University and recently been in discussions with the Institute of Paralegals (IOP). In the next few weeks we will be forming a working group to explore various options open to us — including the possibility of working with the IOP and/or a continental University. If you would like to join the professional development working group please let us know by contacting us on admin@fedee.com. Meetings will take place in London.

WEBSITE IMPROVEMENTS: Please note that we will be updating our website over the coming months to introduce a number of exciting new features. Members will be kept informed of the changes as they progress, through email communications and notices in our newswire.

CHRISTMAS OFFICE CLOSURE: FedEE will be closed over the Christmas period from December 24th 2015 to January 3rd 2016. The last 2015 edition of the newswire will be published on December 17th and the first edition of 2016 will be issued on January 21st.

NEW COUNTRY COVERAGE: Knowledgebase entries are now available for Hong Kong, Kenya and Sri Lanka and entries for Canada, USA and Taiwan are currently under construction. Entries will also soon be available for New Zealand and Northern Ireland.

LATEST ECONOMIC PROJECTIONS PUBLISHED: Our [2016 projections for prices, salaries and employment prospects](#) have now been published. This data can be found in our HR Knowledgebase under the category of '[Pay, tax and economic data](#)'.

NETWORK WITH OTHER FEDEE PROFESSIONALS: Don't forget to sign up to FedEE's face-to-face networking community, butN. Join for free today at <http://www.but-n.com>.

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