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Canada: Stronger Workplaces Act passed in Ontario

Bill 18 — the Stronger Workplaces for a Stronger Economy Act — has now passed its third reading in Ontario, Canada and is expected to receive royal assent in the near future. This draft law makes a number of changes to employment and labour laws. Some of the most important changes affecting employers are outlined below.

Under the draft law, the minimum wage will increase annually in accordance with the consumer price index to ensure that minimum wages rise in line with living costs.

Furthermore, Bill 18 will eliminate the cap on the amount of unpaid wages an employee can claim from an employer, which currently stands at 10,000 Canadian dollars (8,838 US dollars). The six-month limitation period for bringing a claim to the Ministry of Labour for the non-payment of wages will also be increased to two years. These changes will become effective three months after the Bill receives royal assent.

In addition, temporary work agencies and their employer clients will be held jointly and severally liable for failure to pay wages or overtime. As it currently stands, employers do not have statutory liability — the employees must make their claim against the agency. This provision will enter into force one year after the Bill receives assent.

Finally, the Bill extends the protection under the Occupational Health and Safety Act to unpaid students and learners, effective as soon as the Bill receives Royal assent. Employment protection will also be expanded to cover foreign employees coming to Ontario under an immigration programme, but not until one year after the Bill receives royal assent.

Europe: Report on barriers to employment faced by workers with chronic diseases

The European Foundation for the Improvement of Living and Working Conditions (Eurofound) has published a report regarding employment opportunities for people with chronic diseases.

The report highlights that 20.1% of employees in EU Member States have a longstanding illness or health problem. Individuals with chronic diseases — health problems that need continuous treatment for years or decades — are at a higher risk of unemployment or being inactive.

According to the report, employers are reluctant to hire workers with chronic diseases due to an inadequate understanding of these diseases and the perception that such workers will have low productivity and create extra costs. In addition, workers with chronic diseases are more likely to suffer discrimination in the workplace and fail to receive adequate support and understanding from their colleagues and managers.

Eurofound concludes that more legislation and policies specifically relating to chronic diseases are needed to allow flexible management of the employment situation of people suffering from such illnesses. The foundation believes that working time should be adapted for workers with chronic diseases without decreasing their entitlement to benefits and that there should be greater emphasis on increasing worker's sensitivity and awareness of chronic diseases.

France: Details on new hardship accounts published

A number of Decrees have been published in the Official Journal in France, outlining how the new hardship accounts (comptes personnels de prévention de la pénibilité) will work. These accounts form part of the latest pension reform and give workers who have been subject to difficult working conditions the right to retire early.

According to the Decrees, there are ten hardship factors. Employees will be able to start accumulating points for four of them — night work, alternating work, repetitive work, and work in a hyperbaric chamber —

from January 2015. The other six factors, which include awkward posture, manual handling of heavy loads, exposure to chemicals, mechanical vibration, extreme temperatures and noise, will be taken into account no later than from January 2016.

Employees exposed to one occupational risk factor will obtain four points per calendar year and those exposed to several factors will earn eight points per year. An employee can obtain a maximum of 100 points during their career.

The employer must keep a record for each worker, making a note of the employee's exposure time to hardship factors. This information will be sent annually to the National Old Age Insurance Fund for Employees. As an alternative to early retirement, employees may use their hardship points to receive professional training or additional compensation.

Germany: Reforms make parental leave more flexible

Reforms to the German law on parental leave have now been endorsed by the Bundestag.

Under the reforms, up to 24 months of parental leave may be taken between the child's third birthday and eighth birthday without the need for consent from the employer. In addition, employees will be able to divide their parental leave into three periods instead of two without having to seek permission from their employers. An employer may only refuse these requests when justified on the basis of urgent operational needs.

In terms of notification duties, employees wishing to take parental leave before the child's third birthday must inform their employers in writing seven weeks before taking leave. Employees wishing to take parental leave between the child's third and eighth birthdays must notify their employers in writing 13

weeks prior to commencement of the leave period. In the case of requests for part-time work during parental leave, employers have four to eight weeks to write to their employee to reject their request. If the employer does not comply with this requirement, it will be considered that they have approved the request.

These rules will apply to the parents of children born after July 1st 2015.

Peru: New incentives for employers to hire young workers

The government of Peru has introduced a Bill that would create a special labour regime to encourage the employment of young people aged 18 to 24 years.

Under the regime, employers who hire unemployed young workers into their first job would benefit from reduced labour costs. Although young workers employed under the regime would enjoy many employment law rights — such as freedom to not be discriminated against, working time limitations and protection against unfair dismissal — they would only be entitled to 15 days of annual leave per year. Companies would also not have to pay these workers any bonuses or family allowances.

In order for employers to benefit from these conditions the employment contract entered into with the young person must be in writing and specify the duration of employment. Generally, employers must recruit young workers on a full-time basis, but a company may hire a young worker on a part-time contract if they are still in higher education. The contract must be for a period of at least one year with a two-month trial period. The contract may be renewed, but the maximum total term of employment is three years. The employee must be between the ages of 18 and 24 for the full length of employment.

This Bill has been sent to Congress for review.

Turkey: New legislation on workplace safety

The Prime Minister of Turkey, Ahmet Davutoglu, has announced new workplace safety regulations to prevent occupational accidents.

One of the most distinctive features of the new regulations is the reward and sanction system. Those workplaces that do not experience any occupational accidents will be rewarded, but those where accidents do occur will have to pay a penalty. Fines for health and safety violations will be significantly increased and if an employer is found responsible for a fatal occupational accident, they will be banned from public tenders for two years.

The regulations also emphasise the importance of training and education. Employees with hazardous jobs will be required to undertake vocational training and must possess a professional competence training certificate. All high schools will have to provide a compulsory lesson on occupational health and safety.

Special measures will also be introduced for those workers in the mining sector.

UK: Victory for employers in garden leave ruling

The UK Court of Appeal has stated in a recent ruling that if an employee resigns with immediate effect, in breach of their employment contract, the employer has the right not to accept the breach and to expect the employee to honour the terms of the contract.

In this particular case, the employee was contractually obliged to give 12 months' notice of his resignation. In

the employee service agreement there was also a separate restrictive covenant preventing the employee from working for a competitor for six months after termination of employment. In breach of their service agreement, however, the employee signed a new employment contract with a key competitor and informed his employer that he would not return to work.

The employer did not accept the resignation without the required notice period and insisted that the employment contract would continue. As the employee refused to work the employer did not pay him his salary. The employer would not grant the employee garden leave although later agreed to reduce his notice period to six months.

The High Court issued a declaration that the defendant remained in his employment and issued an order preventing him from working elsewhere during the agreed six-month notice period. It also agreed to reduce the restrictive covenant to four months. The High Court ruled that the employer did not have a duty to pay the employee when they refused to return to work and this was not therefore a breach of the contract. The employer was also justified in not granting the employee garden leave as he genuinely wanted the employee to return to work. Noting the employee's financial situation, the Court held that there was insufficient evidence to suggest that the employee would not be compelled by financial hardship to return to work for the employer. The Court of Appeal upheld this decision. [Sunrise Brokers LLP v Michael Rodgers Court of Appeal [2014] EWCA Civ 1373]

USA: Voters approve minimum wage increases

Voters have approved measures to increase the minimum wage in four US states — Arkansas, Nebraska, South Dakota and Alaska — as of January

1st 2015. In Illinois, voters also supported a measure to approve the minimum wage, but this is not binding.

In Arkansas, the minimum hourly wage will increase annually from the current 6.25 US dollars to 8.50 US dollars by 2017. In Nebraska, minimum wages will increase from 7.25 US dollars to 9.00 US dollars by 2016. In Alaska, the minimum hourly wage will rise to 9.75 US dollars by 2016 and in South Dakota, it will increase from 7.25 to 8.50 US dollars by 2015. These four states will join 23 others plus the District of Columbia that have higher minimum wages than the federal minimum of 7.25 US dollars per hour.

Minimum wages are also due to rise in the following US states on January 1st 2015: Arizona, Colorado, Florida, Missouri, Montana, New Jersey, Ohio, Oregon, and Washington.

Pay, Tax and Benefit Trends

ALGERIA: According to the national statistics office, the average net monthly salary for workers in the private sector in Algeria was 29,200 dinars (346 US dollars) in 2013 — this is 13.9% higher than in 2012. On average, the basic salary accounts for approximately 62% and bonuses and allowances account for approximately 38% of an employee's total gross compensation.

ARMENIA: Plans to reduce state-provided maternity pay were recently revealed in Armenia. Instead of providing women on maternity leave with the equivalent of 100% of their average monthly salary, the state will provide a proportion of this, depending on the employee's length of service: women who have been with an employer for less than a year will receive 40% of their average monthly wages, those who have worked for up to three years will receive 60%, and those with more than three years of service will receive 80% of their average salary. Women earning 1 million

drams (1,946 euros) or less will not be affected by this provision. However, for those women who earn above this threshold, employers will be required to make up the shortfall in salary during maternity leave.

BELGIUM: Belgium's government has announced new austerity plans to increase the pension age from 65 to 67 and restrict the scope for early retirement. It also wishes to temporarily freeze the automatic link between wages and inflation. Trade unions are preparing to take strike action in response.

ITALY: A government proposal to give employees in Italy the option to receive their TFR payment (the payment granted on termination of an employee's employment contract) as part of their monthly pay cheque has been rejected. Under the proposal, employees with at least six months of service with their current employer would have been entitled to request monthly payments of their TFR from March 2015 until June 2018, instead of having it saved up to be paid out as a lump sum. The proposal, however, was dropped due to lack of funds.

SPAIN: In accordance with a Spanish Ministerial Order, employees' payslips must now include the employer's social security contribution. Employers must clearly state the total amount of social security paid, indicating how much is paid by the employer and how much is paid by the employee. Companies have a period of six months to adapt to the new payslip model.

SPAIN: Real aggregate wages in Spain decreased by approximately 4.5% over the period 2008–2013, according to a new European Commission report. The report shows a high level of segmentation in the labour market between permanent employees and temporary ones — between 2008 and 2013 temporary workers were more likely to have a pay cut and to lose their jobs. The report concludes that there is a need to reform current legislation to reduce the gap between employees on these different types of contracts.

UK: The UK government is seeking views from employers and pensions scheme administrators on the draft Occupational Pension Schemes Regulations (Levies) (Amendment) 2015. The government wishes to make changes to the rate of the Pension Protection Fund administration levy for the next few years. The consultation period began on November 14th 2014 and will end on January 9th 2015.

USA: Massachusetts has become the third US state to make paid sick leave compulsory. From July 1st 2015 workers will accrue one hour of paid sick leave for every 30 hours worked, up to a maximum of 40 hours of paid sick leave per year. Leave can be taken in the event of the employee's own illness or injury or in order to care for a family member who is ill or injured. Time off can also be taken to attend medical appointments. Employers will be responsible for paying their staff during sickness absence. The measure, however, does not extend to employers with 10 or fewer employees.

VENEZUELA: On December 1st 2014, the national minimum wage in Venezuela will increase by 15% from 4,251 Venezuelan bolivars (676 US dollars) to 4,889 bolivars (778 US dollars) per month. The minimum wage rate has already been increased twice in 2014 — by 10% in January and by 30% in May.

Other Global HR News in Brief

ARGENTINA: Insulting a superior is not reason enough to dismiss an employee who has had no past disciplinary issues and had been with the company for a number of years, according to the Argentinian National Labour Appeals Court. Employers may terminate an employment contract with just cause if an employee commits a serious offence that makes it impossible for the employment relationship to continue. In this particular case, which involved an employee insulting a superior in front of witnesses, the Court did not find the employee's behaviour to have been so serious that the employment relationship could no

longer be maintained. As a result, the employer was ordered to pay the employee compensation for unfair dismissal. [AM c/ Webar Internet Solutions SA y otro s/ despido]

AUSTRALIA: A recent case before the Australian Fair Work Commission has highlighted the importance of employers ensuring that all employees are aware of their duty of confidentiality when supporting colleagues in disciplinary meetings. Employees should be made aware that disciplinary action may be taken for breach of this duty. [Construction, Forestry, Mining and Energy Union v MSS Strategic Medical and Rescue (“MSS”) [2014] FWC 4336]

BULGARIA: According to an announcement by the government, workers in Bulgaria will receive five consecutive non-working holiday days over the New Year period, from December 31st to January 4th (inclusive).

DENMARK: A new annual report demonstrates that 41,362 work-related accidents were reported in Denmark in 2013. According to the Ministry of Labour a total of 36 people died in 2013 because of their work. This is the lowest rate recorded during the period 2008–2013.

GERMANY: Germany's Minister of Labour, Andrea Nahles, has presented a draft law regarding collective bargaining to its Ministries for review. The draft law provides that when more than one union represents the same type of employees in a workplace, both unions should agree on their demands and negotiate jointly. If no agreement can be reached between the unions then the agreement of the union with the largest number of members will be applicable. The draft law is set to be adopted by the Cabinet on December 3rd and it is expected to enter into force in the middle of 2015.

IRISH REPUBLIC: The Republic of Ireland's Ministry for Business and Employment has announced plans to

amend national legislation on sick leave in order to bring it in line with recent jurisprudence from the European Court of Justice. Under the proposed amended legislation, employees on long-term sick leave would continue to accrue annual leave and be able to use their annual leave up to 15 months from the end of the year in which it was accrued. The proposal is currently being discussed in the Dáil.

JAPAN: In Japan the legislature is debating an amendment to the Workers Dispatch Law. Under the proposed amendment employers would be allowed to use dispatched workers — temporary workers employed by temporary agencies — for the same job for an indefinite period, provided that they replace individual workers every three years. The current law prohibits employers from using dispatched workers in the same role for a period exceeding three years, although exceptions apply for 26 job categories. The draft law aims to remove the distinction between these exceptions and all other job categories.

LIECHTENSTEIN: According to Liechtenstein's statistical office, in December 2013, 19,140 employees working in Liechtenstein commuted there from abroad. This represents 52.8% of the total workforce. Over half of commuters came from Switzerland (52.5%), but many commuters also came from Austria (43.4%) and Germany (3.2%). The number of workers commuting from abroad increased by 2.1% during the course of 2013.

NEPAL: The Sexual Harassment in Workplace Bill has been approved by parliament in Nepal. The draft law establishes the definition of sexual harassment and provides that an employee harassed in this way may make an oral or written complaint to a manager in the workplace, who will then seek to settle the dispute. If the harassed employee is not satisfied with the manager's resolution of the situation, they may lodge a complaint against their harasser with the chief district officer within 70 days. The Bill also contains a clause

protecting anyone who makes a claim of sexual harassment from being punished by their employer as a result of their complaint.

SLOVAK REPUBLIC: The parliament of Slovakia has adopted a new Act that strengthens the protection given to employees who report illegal activities discovered through their employment. The

Whistleblowing Protection Act provides that all employers with more than 50 employees must adopt internal regulations, specifying the internal reporting system for whistleblowing. Employers must appoint a person or an organisation to analyse the reports received. All records of reports must be kept for a period of three years. The Act will enter into force on January 1st 2015.

Dates for your diary:

December 1st 2014: The national minimum wage in **Venezuela** increases to 4,889 Venezuelan bolivars per month.

January 1st 2015: **Lithuania** joins the eurozone.

January 1st 2015: **Andorra** introduces income tax.

January 1st 2015: The national minimum wage in the **Czech Republic** increases to 9,200 koruna per month.

Latest news for business travellers:

The **USA** has tightened travel restrictions for individuals arriving from countries affected by Ebola. All air passengers arriving in the United States whose travel originated in Liberia, Sierra Leone or Guinea must fly to one of five designated airports — New York's Kennedy, Newark Liberty, Washington's Dulles, Chicago's O'Hare and Hartsfield-Jackson Atlanta, where enhanced screening procedures will be carried out.

There may be some disruption to flights Between Europe, North America and Asia caused by ash from the erupting Pavlof volcano in **Alaska**. The volcano's activity has calmed down since it erupted over the weekend, however further eruptions are still possible.

The **USA** is currently experiencing a big freeze with ice and snow causing disruption to road travel in the north eastern areas affected.

As a result of the UK's involvement in Iraq and Syria, the Foreign Office has issued a **worldwide** travel warning to British travellers. The Foreign Office considers that there is a high risk of terrorism globally against UK citizens.

Business travellers should be aware of the Australian government's warning concerning **Bangladesh**. They advise travellers to exercise a high degree of caution due to the risk of general strikes, transport blockades and violent clashes between political groups.

The Egyptian Foreign Ministry has renewed its warning against travel to [Libya](#). This is due to on-going conflict between rival militias which has led to the death and injury of Egyptian civilians.

FedEE news:

ADVICE LINE ENQUIRY FORM: Please note that all enquiries on matters of employment law, pay data or other HR-related issues must now be submitted via our new [Advice line Enquiry Form](#) which can be found on the top toolbar in the Members' Area.

NEW COUNTRY DATA: A full knowledgebase entry on Brazil is now available to members. In addition, a full knowledgebase entry for Mexico is currently under construction and should be complete in the coming week.

HELP INDIA'S DEPRIVED OVERCOME HEALTH AND HYGIENE PROBLEMS THIS CHRISTMAS: ...it will not cost you a thing! FedEE is teaming up with the leading Charity "Give India" this Christmas to help four projects that urgently need support. In order to contribute all you need to do is to refer an HR practitioner in another international organisation to FedEE. If they sign up for paid corporate membership before Christmas we will give \$250 in corporate gift aid to the "Give India" project of your choice – crediting FedEE and both organisations for the support. For more information contact us on membershipservices@fedee.com.

NETWORK WITH OTHER FEDEE PROFESSIONALS — AND MORE: FedEE's new face-to-face networking community (called butN) is now 'live' and both members and non-members have started signing up for it around the world. This is a good opportunity to meet other professionals — particularly during business trips. The community also needs your support to make it thrive. Join up today at <http://www.but-n.com>.

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