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β COMMENT: Don't blink, you will miss it *

Back in the late 1980s automation was already well advanced: robots could perform many of the functions they perform today, CNC lathes could be programmed offline, and technologies such as the Cadbury Wispa bar high-speed flow wrapping line (that my team at CCL developed) was as much state of the art as anything that has since been developed. What happened in the late 80s was a virtual block on technological development and continued adoption by only a few selected sectors, such as the automobile industry. The biggest change was outsourcing – first to China and then to other Asian countries, Eastern Europe, and Mexico. Cheap labour was seen as less risky and easier to sell within the corporate mindset than technology, so investment in advanced automation slowed down – in some cases to a stop. Manufacturing in general inched along, but still across the USA and much of Europe far too many people were still packing things by hand and undertaking other routine tasks in a largely manual way. They were doing it with faster computers, but the manual processes were largely just being made easier.

The figures largely speak for themselves. Amongst all the talk about labour-displacing technologies (LDT), there is scant attention given to how much economic growth actually

depends on the amount of labour in terms of per capita hours worked. If we look at the

OECD's figures for GDP per capita (wealth created per person or GDPP) and compare the situation back in 1985 with the latest available figures (for 2016), there are some surprising outcomes.

Let us take eight countries – Australia, Canada, France, Germany, Japan, Korea, the UK, and USA. We could assume that the importance of information and telecoms (ICT), other investments, and other automation factors would grow over time and the relative importance of total hours worked decline. Technology would thus be the driving force for productivity. However, this is not the case for five of the eight economies – France, Germany, Japan, the UK, and USA. For these countries the essential vehicle for growth has been labour, not technology. This is partly explained when we look at total annual GDP growth levels, which were more than twice as high in 1985 than 2016. In fact, ICT investments in 1985 were higher in all but one country (France) in 1984 than 2016.

The radical change in contributors to output is very recent. Labour costs have been rising for many years in virtually all the favoured production countries - such as China and Eastern Europe. But as they rise in one country, manufacturers and call centres have tended to relocate to countries where labour

remains cheap. But this strategy has its natural nemesis. Even in Bangladesh, where wage rates remain cheap, employment conditions are generally improving quickly so that associated labour costs are rising faster than wages. US protectionism is also driving US companies to reshore production. As companies do this then the investment decisions centre more on LDTs than training up shop floor or routine office workers. So, if there is an upward trend in LDT it is recent and, in many cases, very sudden. It will catch many HR professionals unprepared and there is nothing in the repertoire of HR rule book and tactics to cope with it.

Looking ahead to the next 2 years, the biggest impact on jobs will clearly be an economic recession. This time though, those who lose their jobs will probably never re-enter the labour market, unless they can reskill. As liquidity creeps back during the next upward economic swing, investment will be made heavily into ICT and the old world of labour-intensive production will be over, even across much of the services sector. Machines may not do it with a smile, but they normally do it cheaper in the long run, and much better.

AFRICA AND MIDDLE EAST

Ω ISRAEL: Companies that pay employees through a mixture of base salary and sales commission should note that they will probably not be able to contractually exclude commission payments when calculating a severance payment. This was the conclusion of the Labour Court in Tel Aviv that recently considered the case of an employee in an advertising display company. This decision was in spite of the fact that the employee

concerned had signed a waiver to exclude commission in severance pay (albeit many years earlier), and their commission payments varied considerably from month to month.

Ψ NIGERIA/SINGAPORE: Nigeria and Singapore have concluded a bilateral double taxation agreement. The agreement will come into effect on the 1st of January 2019. Under the agreement, individuals and legal entities will be able to take advantage of the most beneficial tax provisions in either countries' applicable domestic laws.

Ψ OMAN: Employers should be aware that it is a must to have an employee's employment visa cancelled properly as soon as they are about to leave the country. If the employers wish to bring back their former employees who left the country, non-cancellation of visa will not only block the re-entry of the person on any kind of visa, including one for a simple visit, but also could cause unnecessary delays and formalities.

Ψ QATAR: It now appears that the government will be introducing its new exit law by next month. Currently the country's 2 million foreign workers all require permission from their employer to leave the country. After the reform only the top 5% of workers will require such consent.

Δ SAUDI ARABIA: Companies operating in Saudi Arabia should warn their staff, even from other Muslim states, not to follow the relaxed conventions observed in most other parts of the world. An illustration of the dangers that arise from such narrow and intolerant attitudes was a 30-second video posted recently on Twitter showing an Egyptian man eating at the same table as a

veiled Saudi woman in a company canteen. The man was arrested, charged, and deported.

Ω SOUTH AFRICA: The decision of the Constitutional Court to legalise the possession of cannabis for private use will put further pressure on employers in the country and increase the international traffic of the drug to countries where it remains unlawful to consume it. The principle difficulty for employers is that cannabis remains in a person's bloodstream for up to 1 month, and prolonged "being under the influence" is greater if the weed is ingested rather than smoked. It will be a dismissible offence if cannabis is found in the possession of an employee in the workplace, but what about the substance carried there in the employee's bloodstream? There is sure to be a lot of litigation when employees challenge dismissal on such grounds.

Δ TURKEY: The Data Control Registry (VERBIS) was opened for business on the 1st of October 2018. Employers with 50+ employees, or with an annual turnover exceeding TRY 25 million (US\$4,164,522), must register with VERBIS by the end of September 2019.

Δ UAE: Under a new worker's insurance scheme, starting from mid-October, instead of paying a mandatory deposit of Dh3,000 (US\$816.8) as a bank guarantee when hiring employees, private companies in the UAE will be able to opt for a Dh60 (US\$16.3) insurance scheme. The scheme will provide an insurance coverage of up to AED 20,000 (US\$5,445.9) in lieu of unpaid wages, return ticket and against work-related injuries, among other benefits.

THE AMERICAS

Δ CANADA: GDP growth over the last quarter of 2018 is forecast by the OECD to rise to an annual rate of 2.9%. This is 0.9% higher than it would otherwise stand because of the sudden injection of \$7–9bn (US\$5.4–7bn) into the economy through the legalisation of cannabis for recreational use on the 17th of October 2018. There has already been a huge demand for cannabis stocks on the Canadian and US market, and there is even a "North American Marijuana Index" measuring a basket of North American publicly listed life sciences companies poised to increase business activities in the marijuana industry. The fact that marijuana use will have a huge negative impact on labour productivity has not yet dawned on either investors or governments.

Ω CANADA: The authority of a general medical practitioner to assess whether an employee is medically fit to undertake high-risk activities has been refuted by an arbitration award. The prospective employee had tested positively in a pre-employment medical test for marijuana, which was claimed to be medically prescribed. However, the arbitrator found that there was no way a general physician could determine suitability for work in such circumstances based on a clinical visit and no first-hand understanding of the tasks to be performed. Moreover, there is no known test to determine the impairment caused by regular marijuana use and constant monitoring was not a possibility. The decision was therefore made in favour of the employer [Lower Churchill Transmission Construction Employers' Association Inc and IBEW, Local 1620].

Ψ CANADA: New leave entitlements have come into force in the Canadian province of New Brunswick. The law gives employees the right to up to 16 weeks of continuous leave (or up to 10 days if intermittent) if they or their child has suffered domestic or sexual violence. Their employer is responsible for paying them their normal earnings for the first 5 days of such leave.

φ **CANADA:** The province of Alberta raised its minimum wage from \$13.60 to \$15 (US\$11.6) an hour on the 1st of October, giving it the highest minimum wage rate in Canada. Ontario was due to raise its \$14 (US\$10.90) an hour rate on the 1st of January, but has announced that it will freeze the current rate for the time being. Also on the 1st of October, minimum rates rose from \$11.10 to \$11.35 (US\$8.84) in Manitoba and \$10.96 to \$11.06 (US\$8.61) in Saskatchewan.

φ **JAMAICA:** In a recent speech, the Minister of Labour and Social Security has warned that National Insurance Scheme inspectors are now undertaking an intensive sweep of employers and shall be seeking to impose maximum penalties on those not operating the schemes fairly and honestly.

ζ **NORTH AMERICA:** A deal has at last been concluded to replace the former NAFTA trade pact. This brings back together the USA with its neighbours in a new United States–Mexico–Canada Agreement (USMCA) worth \$1.2 trillion each year. Success ahead of the set deadline was only achieved at the last minute as fervent phone calls sought to overcome Canada's closed dairy market and potential US tariffs.

Ψ USA: Employers are now required to follow new procedures on filling job vacancies. Instead of using previous forms for requesting a consumer check on a job candidate, they should use one published by the Consumer Financial Protection Bureau (CFPB). Before making an application for any background report relating to driving history, criminal records, or consumer credit from any agency, an employer must inform the candidate that it is being sought for employment purposes and gain their written authorisation. They must also inform candidates that there is a national security freeze to protect them from identity theft.

Ω **USA:** The Equal Employment Opportunity Commission (EEOC) has filed a lawsuit in Denver, Colorado, alleging that a trucking company has discriminated against a Californian job applicant on the grounds of disability. The company had used a pre-employment company, ErgoMed, to screen job applicants, and the applicant had been rejected early in a physical abilities test because she complained of “sore shoulders” from previously undertaking lifting tasks.

Ω **USA:** An application has been made to the US District Court in the District of New Jersey alleging that Virginia's 13th largest publicly traded company, Norfolk Southern Inc, has violated the Age Discrimination in Employment Act. The alleged offence, which the company denies, is that the company refused to consider a 56-year-old applicant who applied for the position of a railroad special agent position on the grounds that the company operates a policy of giving preference to those under the age of 52. The applicant was well qualified, with 30 years of law enforcement service and a degree in criminal justice.

φ **USA:** South Dakota will increase its minimum wage on the 1st of January 2019 from \$8.85 to \$9.10 an hour. The minimum rate for tipped workers, such as cab drivers and restaurant waiters, will also rise to just \$4.55 an hour.

φ **USA:** The highest minimum wage set by any government in the USA has just been brought into effect at airports in New York and New Jersey. 40,000 workers at JFK, LaGuardia, and Newark airports will receive at least \$19 an hour. The new pay policy will cover all ground staff, including those working for private contractors.

Ω **USA:** There are a raft of LGBT-related cases now on appeal before the Federal Supreme Court, with judgements expected this autumn. These principally question whether Title VII of the Human Right Act can be applied to LGBT workers because of the reference to “sex” in the Act. The second circuit court has already ruled that Title VII does cover discrimination because of sexual orientation.

Ψ **USA:** California’s Senate Bill 1300 that takes effect on the 1st of January 2019 will have a huge impact on employers’ rights. In future, employers will not be allowed to solicit a release claim or waiver under the Fair Employment and Housing Act (FEHA) either in exchange for a reward (bonus) or threats concerning continued employment. Neither will they be able to apply gagging orders (non-disparagement agreements) about workplace conduct. Employers will also have a much-reduced right to claim legal costs for the defence of claims (effectively suspending Code of Civil Procedure section 998), and vicarious liability will be extended to any non-employee – such as a supplier

or customer – for all forms of harassment – not just sexual harassment.

ASIA AND PACIFIC

Ω **AUSTRALIA:** A dire warning about the dangers of keeping the handling of sexual harassment cases to internal disciplinary procedures is well illustrated in the recent highly publicised case concerning the politician Barnaby Joyce. The conclusion of the internal review board that they were “unable to make a determination” because of too little evidence leaves all parties in limbo. There is not only the absence of closure, but accusations that the case was not investigated properly. That is why in such cases either a formal arbitration process using a professional external arbitrator or even open court hearing will at least produce a more certain final outcome.

Ψ **BANGLADESH:** The proposed amendment to the Labour Act contains a number of important features. The first is to reduce the threshold for union recognition to 20% of the workforce, from 30%. Workers will only be able to belong to one union and if they are found to have multiple memberships the penalty will be one month imprisonment. There will also be heavy penalties on workers for applying undue pressure on employers, disrupting utilities and organising unlawful strikes. In fact, there is a requirement to give 21 days’ notice prior to any strike activity. Curiously, another unrelated element of the draft law applies to maternity leave. This sets a minimum period of paid maternity leave at 8 weeks, with heavy penalties too for companies that deny leave. The draft also establishes a complete ban on the employment of children in factories.

Ψ CHINA: Under the newly issued “Female Workers’ Labour Protection Special Provisions”, employers in Henan province must not reduce the wages and welfare benefits of female workers because of marriage, pregnancy, maternity leave, or breastfeeding. If a female worker is subjected to sexual harassment, or other acts endangering her workplace personal safety, employers must deal with the problem promptly and also protect the privacy of the victim. In addition, employers must pay a monthly “health fee” costing no less than 35 yuan (US\$5) per female worker. These provisions take effect on the 1st of November 2018.

Ψ CHINA: An official notice has just been issued in the southeast province of Fujian to assist employers in meeting the costs of temporary lay-offs. Affected employers will be able to claim “stabilising employment subsidies”, which amount to 50% of the total amount of unemployment insurance premiums already paid by the enterprise and its employees in the previous year.

φ HONG KONG: Employers in Hong Kong may now receive age-related vocational training allowances. These are paid upon completion by employees of on-the-job training (OJT) under the Employment Programme for the Elderly and Middle-aged (EPEM). The allowances are up to \$3,000 (US\$383) per month during a period of 3 to 6 months for each employee aged 40 to 60 years old, and up to \$4,000 (US\$511) per month during a period of 6 to 12 months for each employee aged 60 or above.

Ψ INDIA: The Chief Minister of Gujarat, Vijay Rupani, has announced that a new law is being drafted that guarantees 80% of all new

jobs in industrial firms will be given to Gujarantis. In addition, companies will have to give at least 25% of jobs to those from their immediate locality. The law will include powers for the government to take action to enforce compliance and deny companies contravening it any government contracts.

Δ INDIA: The next few weeks will be broken up by a number of important gazetted public holidays. Such days are mandatory in India, even for those who are not of the faith that celebrates the anniversary. The most important day is the 7th of November, which is Diwali – a Hindu festival of lights that is also celebrated elsewhere around the world. Other dates are the 19th of October (Dussehra), the 21st of November (Id-e-Milad – Prophet Muhammad’s birthday), and the 23rd of November (Guru Nanak’s birthday). The 6th of November is also often given off in Southern India to celebrate Deepavali.

Ψ JAPAN/ESTONIA/LITHUANIA: After extensive discussions, Japan has concluded bilateral double taxation agreements with both Estonia and Lithuania. The agreement with Estonia came into force on the 29th of September 2018, whereas the agreement with Lithuania will take effect on applicable taxes from the 1st of January 2019 onwards.

Δ JAPAN: There are an increasing number of cases of tuberculosis (TB) amongst foreigners who have come to the country to work. Although the total number of cases across the country last year was 16,789, there is a downward trend each year. However, in the case of immigrants, the trend is upwards and they now account for 10% of the total. TB is the world's leading infectious disease killer and it is feared that foreign workers do not report their illness out

of fears that they might lose their job. Therefore, immigration authorities now require residents of six Asian nations who apply to remain in Japan for more than 90 days to provide a certificate proving that they are not infected with TB. It is also essential that employers are vigilant and require those seen to be persistently coughing to see a physician.

φ **MALAYSIA:** We reported last year that the Malaysian government was planning to introduce a single, unified minimum wage covering the whole country. This will finally happen on January 1st 2019. The rate will be RM1,050 (US\$252.3) per month, and RM5.05 (US\$1.2) per hour.

ψ **NEPAL/MALAYSIA:** There are currently 385,000 documented Nepali workers in Malaysia. However, since May 2018 immigration authorities in Malaysia have blocked the entrance of Nepali workers to the country. As a consequence, talks have been held between officials of both countries and a draft agreement drawn up to resume access and prevent Nepali workers from being charged to obtain jobs in Malaysia. The final agreement is likely to include health and safety provisions, a requirement for annual pay reviews, medical insurance, compensation for injured workers, and air fare reimbursement.

ψ **SINGAPORE:** A draft amendment to the Employment Act has now passed its first reading before parliament. This introduces the concept of “constructive dismissal” where an employee is forced to resign due to undue pressure and unreasonable actions on the part of the employer. It also broadens the scope of the law to anyone earning over \$4,500 a month (excluding any variable

additions). A new section is added (and one repealed) so that every employee is granted a right to some annual leave, while another proposed provision grants those working on a public holiday to take compensatory time off through parts of days in lieu rather than whole days. The next reading of the Bill will be in November.

φ **TAIWAN:** With effect from the 1st of January 2019, the Taiwan’s social insurance and labour insurance premium rates will each rise by 0.5% to stand at 9% and 11% respectively. It is estimated that 13.46 million people will be affected by this change.

ψ **VIETNAM:** Back in March 2018, we reported that a new version of the Labour Code was under review. The government has now issued a decree that will take effect on the 1st of November 2018. The law requires employers to establish a body of job task and productivity norms linked to wage levels. These must be introduced experimentally after giving 15 days’ notice and may not remain experimental for more than 3 months. Thereafter, employers must consult organisations representing workplace collectives before making further changes and, if they employ ten or more people, submit them to their local labour authorities.

ψ **UZBEKISTAN:** The state Senate has approved a new law on the operation of private employment agencies. This allows the Ministry of Employment and Labour Relations to set up regulatory mechanisms and require private agencies to forge links with the public recruitment services.

EUROPE

Δ ESTONIA: It is now almost 4 years since a whistleblower at Danske Bank in Estonia alerted the company to the existence of widescale money laundering in the country branch of the bank. This is in spite of the company's whistleblower policy stating: "The investigation must be conducted and finalised as soon as possible." In fact, it was not until the end of September that the plodding law firm carrying out the resulting investigation issued its report. They eventually found that there had been 6,200 suspicious accounts out of a total of 15,000 held by non-resident customers and that the total sum laundered amounted to €200bn. 42 employees have now been dismissed and eight reported to the police. Curiously, it was not until the recent publication of the investigative report that the CEO of the bank felt it necessary to resign.

Ψ EU: Last December a proposal was made for a new EU Directive on "Transparent and Predictable Working Conditions". This is currently being debated by the European Parliament and is the subject of a meeting on the 16th of October to be held in Brussels, organised by Austrian social partners and the European Trades Union Congress. Top of the agenda for this meeting will be: "How to fight precarious work and which changes are needed to substantively improve the working conditions of people in the EU?" Watch this space.

φ **EUROPE:** The latest updated wage figures from European countries may be viewed [here](#).

Ψ FRANCE: The law "for the freedom to choose one's professional future", has now been enacted. However, it still requires the French government to issue some secondary legislation (decrees) to introduce a few aspects of the law. In any case, measures to close the gender pay gap must be introduced by next January for companies with 250+ employees and by the 1st of January 2020 for those employing 50–250 staff. Every year companies must reveal their pay gaps but, unlike in Britain, they must also state what determined actions they are taking to eliminate them. This includes making detailed notifications to staff representatives. It will be determined through a later decree what maximum gap will be allowed. If this is exceeded then negotiations will have to take place and financial resources set aside to get rid of the gap. Failure to publish a plan or achieve gender parity over a 3-year period will attract a penalty equal to 1% of a company's payroll. Furthermore, companies have an obligation to publish details of the measures taken to remove sexual harassment in a pro-active way. Companies must also address gender equality in their corporate governance reports, and especially the number of men and women in the top 10% of managerial positions.

φ **FRANCE:** The 2018 sectoral collective agreement for the metallurgy industry is now [available online](#). This has been updated annually since 1970 and retained much of its original text. In the latest revision, probationary periods may not be renewed for junior (level 1 and 2) employees and the minimum notice period to be given on resignation is 2 weeks. Improvements have also been made to sick pay for those with over 1 year of service, severance set to increase with seniority, and a new seniority

bonus introduced after 3 years of service. This provides payments that vary by years of service from 3% to 15% of the minimum wage.

Ω GERMANY: Employers should take urgent steps to examine the wording of any forfeiture clauses in their employees' employment contracts. This is because of a recent Federal Labour Court ruling that found the correct wording of these clauses to be essential in order to be considered valid. In the case in question, the clause was not clearly worded and did not explicitly exclude claims under the Minimum Wage Act. A forfeiture clause is a common element in employment contracts as they limit the time period when either party may make claims against each other – usually to 3 months. In their absence, the default period set by law is 3 years.

Ψ GERMANY: Employers will recall that the law on temporary employment changed in April 2017, setting a maximum grace period of 18 consecutive months before they must either hire the worker or face a substantial penalty. The first employees to be covered by this change are now reaching this limit. Only employers whose staff are covered by collective agreements setting other limits will be able to enjoy longer grace periods.

Ψ GERMANY: A move to liberalise the labour market in the German finance sector is underway as part of a strategy to woo institutions from London. The principal proposed change is establishing a new category of highly paid "risk takers" on a par with senior managers, as defined under the German Termination Protection Act (Kündigungsschutzgesetz or "KSchG"). This will allow them to be dismissed with a

reasonable level of severance compensation – a facility not available to other employees. Frankfurt is rapidly moving up the rankings as a financial centre and now stands 10th worldwide, ahead of Luxembourg (21st) and Paris (23rd). So far, 26 financial institutions have announced a full, or partial, move to Frankfurt.

φ GREECE: Following the end of the bailout restrictions, the Greek government is seeking to speed up the revision of the minimum wage to bring it back to at least the level before its prolonged economic crisis saw it slashed by 32%. The minimum wage has been set at 585.78 euros (US\$680) since the 1st of March 2012. Any revision is likely to come into effect on the 1st of January 2019.

Ψ IRISH REPUBLIC: The Workplace Relations Commission has published an updated version of its [Guide to Employment, Labour and Equality Law](#). This free, 76-page document is an essential reference document for all employers operating in Ireland. Possibly its most valued section is 'Appendix One' where a detailed table sets out all the adjudication redress provisions against each legal provision. This allows an employer to determine the seriousness of an infraction when it occurs.

Ψ ITALY: The Labour Minister Luigi Di Maio has confirmed that a new combined Labour Code is currently being drafted and will be published early next year. This will lead to the abolition of 140 different Labour laws that are currently in force. Although it will make the law easier to interpret it is unlikely to lead to any substantive changes in employment rights or obligations.

Ψ NETHERLANDS: The draft “Act on Labour Market in Balance” has now finished its public consultation and is currently before the Council of State. The Council of State is an archaic advisory body (which includes the royal family) that must be consulted before a new law goes to the Dutch Cabinet and Parliament for consideration. This law is a further attempt to tinker with flexible working arrangements in a country where flexible working has been increasing at a faster rate than anywhere else in the EU. The last major reform in this field was the Work and Security Act (2015), which actually encouraged employers to avoid permanent employment contracts, even though it shortened the fixed-term contract period. Now the government wants to revert back from two years to a three-year maximum fixed-term contract period. There would be a new cause for dismissal based on the concept of cumulative infractions and the obligation to offer terminated employees transition compensation applied from day one of employment rather - than after two years. The verdict is out on these changes, although there are reasons enough - with or without them - for avoiding employment altogether in the Netherlands, unless it is an unavoidable business necessity.

Ψ RUSSIA: The Russian President has signed into law a measure that will increase the state retirement age from 60 to 65 for men and 55 to 60 for women. The new retirement age for men is just 1 year below the male life expectancy age. The retirement ages will increase gradually until 2023 to the new levels.

Ω SPAIN: In a recent Supreme Court case, an employee challenged the basis for their severance pay calculation. The employee

had been dismissed, even though they worked reduced hours in order to care for a relative - which gave them special protection under the law. Their dismissal had been declared null and void by a lower court, but it had not been resolved how severance pay should be calculated. The Supreme Court decided that the appropriate accrued salary should be based on the salary that they received prior to their reduction in working hours, rather than after they had reduced their hours. This amounted to a substantial penalty against the employer concerned.

Ψ UNITED KINGDOM: It is now only 6 months until the Employment Rights Act 1996 (Itemised Pay Statement) (Amendment) Order 2018 comes into force on the 6th of April 2019. This requires employers to give details of hours worked on all payslips. This can be given either as a single aggregate figure or separate figures for different types of work or different rates of pay.

Δ UNITED KINGDOM: A recent survey of solicitors (lawyers) operating in Scotland has found that 40% of those practicing criminal defence, 25% of family lawyers and 19% of prosecutors have been victims of violence. The proportion of those threatened with violence is even higher, although only 20% of violent attacks were reported to the police. 90% of incidents took place in solicitors’ offices or court environs, and a high proportion of attacks came from clients of the opposing party.

Ω UNITED KINGDOM: 1 year on from the Supreme Court case that scrapped employment tribunal fees, single claims to tribunals have risen by 165%. So far there have been 12,400 refund claims for fees previously paid to tribunals – out of a total of

around 40,000 where fees were previously demanded unlawfully.

Ω UNITED KINGDOM: In the UK an employer may dismiss an employee without prior warning for gross misconduct, or even redundancy - but otherwise it is generally regarded by tribunals that other cases of poor conduct will require, in addition to due notice, a first warning and right to appeal under a grievance procedure. Moreover, the dismissal must be “reasonable” and follow “fair procedures”. In *Quintiles Commercial UK Ltd v Barongo* [2018], the tribunal found that as gross misconduct did not apply, a warning was due prior to dismissal. However, the Employment Appeals Tribunal (EAT) disagreed. They misrepresented the Tribunal’s views by claiming that they believed a dismissal “would always be unfair” if there was no gross misconduct and no prior warning. This was not a principle that the tribunal had actually followed, as they took into account the nature of the conduct in question – failure to attend two mandatory training courses – against the background of an otherwise stainless employment record. The EAT once again demonstrates that it is not a competent body to assess appeals.

Δ GLOBAL: The growing threat of labour-displacing technologies (LDT) is strengthening interest in the 4-day week. It was the subject of a new campaign launched by the UK’s Trades Union Congress. Meanwhile, there are reports from around the

world of experiments undertaken to assess the viability of such a schedule. The latest is a financial services company ‘Perpetual Guardian’ in New Zealand that introduced a trial earlier this year and found that 78% of employees reported they had a better work–life balance, whilst the company also discovered productivity levels up by around 20%. Back in the UK again, an experiment conducted with 5,000 employees working at British Telecom call centres found that call rates were up, there was better feedback from customers, more sales made, and a reduced level of employee absence. However, such a schedule is not all a bed of roses. In 2016, the City of Gothenburg in Sweden experimented with a 4-day week. Although they achieved greater productivity, they also experienced a lot of resistance. In fact, on a longer-term basis, the working of even a 35-hour week over 4 days is not viable because of the stress it induces on employees, and if it is to become a solution to LDT, it will have to reduce total working time – and few employees will be content with a pro-rata reduction in their weekly salary levels.

News subject key

ζ Political context / background

β Business / Economics

Δ HR-related / practices

Ψ Laws / Codes / Immigration

Ω Court cases / structures

φ Remuneration / Tax / Labour relations

Dates for your diary:

November 1st 2018: Decree Amending Labour Code in force in **Vietnam**.

November 1st 2018: Class-actions lawful in **Germany**.

November 11th 2018: **EU** temporary border controls removed.

November 12th-14th 2018: FedEE HR Counsel Meetings in London, **UK**.

January 1st 2019: **Netherlands** – expat 30% tax ruling – 8 years to 5 years.

January 1st 2019: **Malaysia**'s new redundancy fund due to come into force.

January 31st 2019: **UK** Changed actual Brexit deadline to agree a deal.

January 1st 2020: **Washington State (USA)** Paid family leave law will take effect.

⚠ Travel Warnings

BRAZIL: The second round of general elections (presidential, parliamentary and the election of governors) will take place on October the 28th.

CAMBODIA: Be mindful of a heightened risk of flooding along the whole of the Mekong River.

EGYPT: 52 suspected terrorists were killed by security forces in Sinai in two separate operations.

INDIA: Expect flight cancellation due to cyclone Titli. An express train partially derailed at a railway station in Rae Bareilly, 80km southwest of Lucknow, the capital of Uttar Pradesh state on the 10th of October killing at least 5 passengers and leaving dozens injured.

IVORY COAST: Visitors are advised to exercise a high degree of caution in the country due to crime and the prevalent insecurity of certain regions, such as the area bordering Liberia.

ITALY: Milan Linate airport is closing for three months during the Summer of 2019 due to runway construction.

LIBYA: Flights to and from Mitiga Airport from one o'clock am to seven o'clock am have been halted for security reasons.

MOZAMBIQUE: Reconsider your travel to the districts of Palma, Mocímboa da Praia, Muidumbe, Macomia and Quissanga due to clashes between armed groups, security forces and residents.

NAMIBIA: AIR Namibia has cancelled flights to Harare, capital city of Zimbabwe due to a dispute about an impounded plane.

NIGER: Reconsider travel to the country due to crime and terrorism.

RUSSIA: A bridge collapsed on the main track of the Trans Siberian Railway on the 9th of October morning. Expect traffic disruptions on long distance rail traffic.

SOUTH AFRICA: Please stay vigilant due to the significant level of serious crime throughout the country.

SPAIN: Primera Air filed for bankruptcy and has now ceased all operations.

UKRAINE: Dishonesty is rife across the country. It's been reported that some British nationals have been charged inflated prices in bills from bars, cafes, restaurants and numerous other suppliers. Visitors are advised to confirm the price before ordering and check the bill and receipt against the price of ordered items from the menu.

UAE: Emirates airline has begun canceling flights for next year as it prepares for runway reconstruction at Dubai International Airport.

USA: Thousands of Marriott Hotel workers in 8 cities across the country are on strike over a pay dispute. Expect flight disruptions in Florida due to Hurricane Michael.

ZIMBABWE: Tensions have risen across the country over possible lack of basic commodities.

FedEE News

HR COUNSEL COURSE: We are now open to enrolments for the new, more flexible, Advanced Diploma Course in Multijurisdictional Employment Law – leading to the designation “HR Counsel ®”. There is no fixed start date and completion can be achieved over any period from 6 to 18 months, according to busy work schedules. The coverage of the course has been expanded to ten core jurisdictions by the addition of China, Italy and UAE and conversion of the course into a purely distance learning format (but still with a Personal Tutor) has significantly cut costs. For further details, please consult our [latest prospectus](#) or contact us at Academy@fedee.com.

FELLOWS' ROUND TABLE: The next Fellows' round table meeting will take place in London on the afternoon of Monday, November 12th. Once again, it will be held at [Friends' House](#) near Euston and there will be no charge for attendance. The next meeting will focus on the implications of Brexit (deal or no deal), a review of #Me Too worldwide and an assessment of the GDPR implementation outcomes. Discussion in these sessions is on the understanding that no notes are taken and anything said does not go out of the room. To book the event, please click [here](#). If you are not a Fellow you can still apply to come as an invited guest.

JEAPS: FedEE's proprietary Job Evaluation and Pricing System (JEAPS) has now been updated to a spot reference date of September 1st 2018. We have removed some of the smaller countries and territories (such as the Faroes) and added several important national salary markets from outside Europe – such as Japan and the USA. JEAPS differs fundamentally from

other pay market information systems because it is far more consistent and based on an evaluation of job size rather than linked to job title. There are many free salary checking services on the Internet - such as Payscale, Glass door, emolument.com and services offered by recruitment companies. These produce highly misleading data, based on either the public submitting (often erroneous) data to an all accepting website or unrepresentative (and often inflated) salaries offered through recruiters on the jobs market that often differ greatly from rates received by people already in jobs. Pay surveys are sometimes better reflections of true pay levels, but only if they are based on job evaluated positions and their participating companies already know broadly what they need to pay. The JEAPS algorithm is highly sophisticated and draws on data from hundreds of sources. The output is as hourly rates (excluding bonus payments) as this is a more useful figure than weekly or monthly rates that could be based on very different working times. It is also a median figure – as the most typical rate in a range. Medians relative to numerical averages range from 0.71% in countries like Brazil and Israel to 0.86 in Scandinavia - where pay differentials are much flatter than in the rest of the world.

FEDEE KNOWLEDGEBASE: The latest country data to be posted onto this online member-only resource is Nigeria. We have also almost completed a comprehensive update of remuneration data sections in the knowledgebase.

NEWSWIRE LINKS: If you wish to explore newswire links please first log-in to the members' area of our website at <https://members.fedee.com/wp-login.php>. The main tables are all available in our knowledgebase.

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