

The Global Guide Quarterly

LABOR AND EMPLOYMENT LAW UPDATES FROM AROUND THE GLOBE

Littler



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[Geida D. Sanlate](#), Littler Editor

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Australia

Intentional Underpayment of Wages a Criminal Offense

New Legislation Enacted

Authors: Naomi Seddon, Shareholder, and Xi (Grace) Yang, Of Counsel – Littler

Under the Fair Work Legislation Amendment (known as the Closing Loopholes Act), as of January 1, 2025, intentional underpayment of employees' wages and certain benefits will be a criminal offense, with a maximum of 10 years' imprisonment for individuals, and/or a fine of up to AU\$7.825 million for a company.

The new law also allows employees, unions and employers to apply to the Fair Work Commission for an order to ensure labor hire employees are paid at least what they would receive under the company's enterprise agreement, or in equivalent public sector jobs.

New Rules Apply to Fixed Term Contracts

New Legislation Enacted

Authors: Naomi Seddon, Shareholder, and Xi (Grace) Yang, Of Counsel – Littler

New rules now apply when engaging employees on fixed term contracts. Employers must give every employee engaged under a new fixed term contract a Fixed Term Contract Information Statement (FTCIS). The FTCIS must be furnished when the employee enters into the fixed term contract, or as soon as possible after entering the contract. There are time, renewal and consecutive contract limitations on use of fixed term contracts, subject to certain exceptions. The limitations do not apply to fixed term contracts entered into before December 6, 2023, however the new rules apply when a new fixed term contract is entered into on or after December 6, 2023.

Proposed Legislation Provides for Broad Range of Changes

Proposed Bill or Initiative

Authors: Naomi Seddon, Shareholder, and Xi (Grace) Yang, Of Counsel – Littler

The "Closing Loopholes" Bill still pending before Parliament would implement significant changes to employment law in Australia, including the following:

- Set binding minimum standards for "employee-like" workers performing digital platform work.
- Amend the definition of casual employee and provide employees a pathway to change from casual to regular employment.
- Change the defense to sham contracting (misrepresenting employment as an independent contractor arrangement) to require employers to establish that they reasonably believed the contract was a contract for services.
- Change the definitions of "employee" and "employer" to include an assessment of the "totality" of the relationship, including consideration of the substance, practical reality and true nature of the working relationship.



Enforcement of Positive Duty to Eliminate Sexual Harassment in the Workplace

Legal Compliance

Authors: Naomi Seddon, Shareholder, and Xi (Grace) Yang, Of Counsel – Littler

The Australian Human Rights Commission now has the power to investigate and enforce compliance with the Australia's Sex Discrimination Act, which requires all employers to take proactive and meaningful action to prevent workplace sexual harassment, sex discrimination, sex-based harassment, and conduct that subjects an employee to a hostile workplace environment on the basis of sex.

Austria

Changes to Part-Time Parental Leave and Care Leave

New Legislation Enacted

Authors: Jakob Zöchling, Associate, and Armin Popp, Senior Associate – Littler Austria

Employees who have worked for more than three years for a company with 20 or more employees are now entitled to a maximum of seven years of parental part-time work until their child reaches the age of eight. This seven-year period includes the period of maternity leave and periods of parental leave by either parent. If these requirements are not met but the employee still wishes to work part-time, the employer must provide the employee with written reasons for rejecting the request. The requirement that employers provide employees with a reason for their actions is a rather new phenomenon in Austrian labor law.

As of November 1, 2023, there have also been changes to care leave. Previously, employees were only entitled to care leave if the close relative requiring care lived in the same household as the employee. This requirement no longer applies and the leave must now also be granted to close relatives who do not live in the same household. In addition, care leave must now be granted to care for a sick person who is not related to the employee but who lives in the same household.

Brazil

New Ordinance on Professional Apprenticeship Programs

New Legislation Enacted

Authors: Marília Nascimento Minicucci, Shareholder, and Pâmela Almeida da Silva Gordo, Senior Associate – Chiodo Minicucci Advogados

On October 20, 2023, the Labor and Employment Ministry issued Ordinance # 3,544/2023, providing for new rules for apprenticeship programs. Some changes include:

- Allowing apprentices hired by service-providing companies to conduct their activities on the premises of the company hiring their services;
- The Brazilian Labor Code will no longer apply to apprentices working remotely, and the specific apprenticeship laws/norms will apply;
- New requirements for educational institutions such as the obligation to hire a psychologist or a social worker to support apprentices.

The new ordinance will become effective within 90 days of its publication on October 20, 2023.

Review [Ordinance #3,544](#).



Commercial Sectors May Only Operate on Sundays and Holidays if Authorized by Collective Bargaining Agreement and a Municipal Law

New Legislation Enacted

Authors: Marília Nascimento Minicucci, Shareholder, and Pâmela Almeida da Silva Gordo, Senior Associate –
Chiode Minicucci Advogados

Effective March 1, 2024, the ordinance allowing permanent work authorization on Sundays and holidays for some sectors of commerce is being revoked. The new ordinance reinstates prior rules for commercial retail and trade businesses and requires that (i) work on Sundays, for commerce in general, must comply with municipal legislation, and (ii) work on holidays must be authorized by a CBA and comply with municipal legislation.

The CBA applicable to each sector may contain specific provisions regarding work on Sundays and holidays, such as, for example, the need for authorization by collective bargaining agreement and special remuneration. Click to review [Ordinance # 3,665](#) and [Ordinance # 3,708](#).

New Regulations on the Preparation of Pay Transparency Reports

New Legislation Enacted

Authors: Marília Nascimento Minicucci, Shareholder, and Pâmela Almeida da Silva Gordo, Senior Associate –
Chiode Minicucci Advogados

Brazil has issued two new ordinances setting forth specifications for the preparation of the salary transparency and remuneration criteria reports required, under Brazil's recently enacted equal pay law, applicable to all companies with 100 or more employees. Ordinance 3,714, published on November 27, 2023, provides that the Ministry of Labor and Employment itself will collect information and prepare the reports, using the data provided by employers in the eSocial system and in the "Emprega Brasil" web portal. Companies must publish the reports prepared by the Ministry on their websites, social networks or other means that guarantee their wide dissemination, not only to employees but also to the public in general. Companies must also provide training to managers and employees on equality in the workplace.

If the Ministry of Labor and Employment finds wage inequality, companies will be required to prepare and present an action plan to remedy the problem. A copy of the plan must be filed with the employees' trade union. Review [Decree # 11,795](#) and [Ordinance # 3,714](#).

Discrimination, Stress at Work and Moral or Sexual Harassment, Among Others, are Now Considered Causes of Occupational Diseases

New Legislation Enacted

Authors: Marília Nascimento Minicucci, Shareholder, and Pâmela Almeida da Silva Gordo, Senior Associate –
Chiode Minicucci Advogados

The Ministry of Health updated its list of medical conditions triggered by psychosocial factors in the workplace, including, among other things, discrimination, violence, moral/sexual harassment, organizational management, work tasks, and the corporate environment. Some of the medical conditions listed are:

- Mental and behavioral disorder due to the use of: alcohol; opiates; cannabinoids; sedatives and hypnotics; cocaine; hallucinogens; smoke; multiple drugs and the use of other psychoactive substances; other stimulants, including caffeine;
- Delirium;
- Depression;



- Anxiety;
- Attempted suicide;
- Exhaustion (burnout).

For a medical condition to be defined as an occupational disease, Social Security must establish the technical link between the work factors and the medical condition. For now, there is no change in social security legislation following the Ministry of Health's ordinance and therefore no automatic association between the disease and the granting of social security leave. However, the new guidelines can be used as a legal basis for judges and lawyers in cases seeking recognition of occupational disease. Review [Ordinance # 1,999](#).

Brazilian Supreme Court Decision on the Collection of Assistance Fees by Unions Precedential Decision by Judiciary or Regulatory Agency

Authors: Marília Nascimento Minicucci, Shareholder, and Pâmela Almeida da Silva Gordo, Senior Associate – Chiode Minicucci Advogados

On September 12, 2023, Brazil's Supreme Court ruled (in [Case No. ARE 1018459](#)) that all collective bargaining agreements may include language allowing unions to impose assistance fees on all employees of a given category, including non-union employees, provided that the employees have the right to opt out of the fees. Other/lower labor courts are expected to follow the decision of the Supreme Court.

Canada

Ontario: New Rules for Reservist Leaves, OSHA Violations, and Mass Terminations

New Legislation Enacted

Authors: Rhonda B. Levy, Knowledge Management Counsel, and Monty Verlint, Partner – Littler LLP

Ontario's Working for Workers Act expands eligibility for reservist leave, providing leave to recover from a physical or mental health illness, injury or medical emergency resulting from participation in a military operation or training. The Act also reduces the eligibility period from three to two months of consecutive employment.

The Act also provides that when determining whether there has been a mass termination at an employer's "establishment," the "location at which the employer carries on business" includes an employee's private residence, provided the employee performs work there and does not perform work at any other location where the employer carries on business. In addition to posting a notice of mass termination, employers now must provide notice to each affected employee.

The Act also increases the fine for corporations convicted of an offence under the OHSA from \$1.5 million to \$2 million. Additional details are available on [Littler.com](#).

BC Appeal Court Finds Employee's Sexual Harassment of Subordinate Not Sufficiently Serious to Justify His Dismissal

Precedential Decision by Judiciary or Regulatory Agency

Authors: Rhonda B. Levy, Knowledge Management Counsel, and Monty Verlint, Partner – Littler LLP

In *Café La Foret Ltd. v. Cho*, 2023 BCCA 354, the British Columbia Court of Appeal (BCCA) upheld a lower court's determination that an employee's sexual harassment of a subordinate was not sufficiently serious to justify the dismissal but varied the lower court's order to read that the \$25,000 award was made exclusively for aggravated damages, not punitive damages. Additional details are available on [Littler.com](#).



Supreme Court of Canada Confirms “Owners” of Construction Projects Are “Employers” Under OHSA

Precedential Decision by Judiciary or Regulatory Agency

Authors: Rhonda B. Levy, Knowledge Management Counsel, and Monty Verlint, Partner – Littler LLP

In *R. v. Greater Sudbury (City)*, 2023 SCC 28, a divided Supreme Court of Canada upheld a lower court decision finding an “owner” of a construction project can be considered an “employer” within the meaning of the Occupational Health and Safety Act (OHSA). Accordingly, the owner can be held liable, subject to a due diligence defense, for a contractor’s violations of workplace safety on a construction project site, even when it properly engages a reputable contractor to act as the project’s “constructor,” and none of its employees are involved in the construction project. Additional details are available on [Littler.com](https://www.littler.com).

BCCA Upholds Finding That Employee’s Surreptitious Recording of Conversations with Colleagues Justified Dismissal for Just Cause

Precedential Decision by Judiciary or Regulatory Agency

Authors: Rhonda B. Levy, Knowledge Management Counsel, and Monty Verlint, Partner – Littler LLP

In *Shalagin v. Mercer Celgar Limited Partnership*, 2023 BCCA 373, the British Columbia Court of Appeal (BCCA) upheld the lower court’s dismissal of an employee’s wrongful dismissal claim and its finding that his surreptitious recording of conversations with his colleagues justified the termination of his employment for just cause. Additional details are available on [Littler.com](https://www.littler.com).

Alberta Court Holds Placing Employee on Unpaid Leave for Non-compliance with COVID Vaccination Policy Not Constructive Dismissal

Precedential Decision by Judiciary or Regulatory Agency

Authors: Rhonda B. Levy, Knowledge Management Counsel, and Monty Verlint, Partner – Littler LLP

In *Van Hee v Glenmore Inn Holdings Ltd.*, 2023 ABCJ 244 (Glenmore), the Alberta Court of Justice found that an employer’s mandatory vaccination policy was a reasonable, justified and lawful response to the extraordinary circumstances of the COVID pandemic, and that an employee placed on unpaid leave for failing to comply with the employer’s COVID-19 vaccination policy was not constructively dismissed. Additional details are available on [Littler.com](https://www.littler.com).

China

Standard Contract for the Cross-boundary Flow of Personal Information Within the Guangdong-Hong Kong-Macao Greater Bay Area

New Legislation Enacted

Author: Xi (Grace) Yang, Of Counsel – Littler

On December 13, 2023, the Cyberspace Administration of China (CAC) and the Hong Kong Innovation, Technology and Industry Bureau released a set of guidelines to facilitate and streamline the cross-boundary flow of personal information within the Guangdong-Hong Kong-Macao Greater Bay Area.

The guidelines allow individuals and organizations in the mainland cities (i.e., Guangzhou, Shenzhen, Zhuhai, Foshan, Huizhou, Dongguan, Zhongshan, Jiangmen and Zhaoqing in Guangdong Province) and Hong Kong to engage in data flow, with the exception of “important data,” as defined by the relevant authority, by entering into a standard contract. Further, the guidelines lift the restriction on the volume of cross-boundary flow of personal data that can be transferred and specify the documents to be submitted to the government for the personal information protection impact assessment.



Colombia

Applying for Benefits Under Program to Create New Jobs

New Order or Decree

Author: Juan Jose Cataño, Associate – Godoy Córdoba | Littler

The Ministry of Labor has established the conditions and rules for companies applying for benefits under the program to create new formal jobs. The allocation of benefits will prioritize employment opportunities for young individuals between 18 and 28 years old, followed by women over 28 years old, and then men over 28 years old.

Costa Rica

Costa Rica Passes First “Whistleblower Law” to Protect Complainants and Witnesses of Possible Corruption

New Legislation Enacted

Author: Marco Arias, Partner – BDS, Member of Littler Global

On December 13, 2023, the Legislative Chamber of Costa Rica passed Bill No. 23,449, called “*Protección de las personas denunciando y testigos de actos de corrupción contra represalias laborales*” (Law for the protection of complainants and witnesses of acts of corruption against retaliation in employment). Once signed by the President and published in the official journal *La Gaceta*, it will become the first law to properly create and regulate whistleblower protections in Costa Rica.

The law, which is intended to protect both whistleblowers and witnesses of both national and international acts of corruption from any type of retaliation in employment, defines “acts of corruption” to apply to both public officials and individuals who work for private sector employers but who may be performing “public functions” as part of their job. The definition of “complaint” is similarly broad and includes passing information about possible acts of corruption and does not require filing of a formal complaint.

Significantly, the law also imposes an obligation on all employers of 50 or more employees to create an internal channel to receive and address complaints and a duty to maintain the confidentiality of complainants, including any information that could lead to their identification.

Croatia

Amendments to the Croatian Income Tax Act

New Legislation Enacted

Authors: Marija Gregoric, Partner, and Matija Skender, Senior Associate – Babic & Partners Law Firm

As part of the ongoing tax reform in Croatia, the [Income Tax Act](#) was amended on October 3, 2023. Among the most notable changes are the abolishment of the personal income tax surtax and granting authority to cities and municipalities to set income tax rates within predetermined statutory limits. The changes further increase the importance of employees’ place of residence in determining payroll tax deductions.

Minimum Wage Increase for 2024

New Order or Decree

Authors: Marija Gregoric, Partner, and Matija Skender, Senior Associate – Babic & Partners Law Firm

As of January 1, 2024, the monthly minimum wage for full-time employees will increase by 20% to EUR 840. Wage increases for overtime work, night work, difficult working conditions, work on Sundays and work on bank holidays are not included in the minimum wage and, when applicable, must be added to the minimum wage.



New Platform Work Regulations

New Regulation or Official Guidance

Authors: Marija Gregoric, Partner, and Matija Skender, Senior Associate – Babic & Partners Law Firm

Effective January 1, 2024, new regulations will apply to digital platform work (e.g., taxi services, food delivery, etc.) in Croatia.

The [Regulation on Platform Work Records](#) requires the Ministry of Labor record and keep data relevant to platform work and establish and operate the Platform Work Register containing the information on aggregators (intermediaries between digital platforms and employees) and digital platforms.

The [Regulation on Method and Deadlines for Verifying the Amount of Paid Receipts Generated by Platform Work](#) provides digital platforms with access to an information system enabling them to check whether a platform worker has reached the compensation threshold for automatically being considered an employee, giving the digital platforms the opportunity to make informed decisions on whether to schedule further work for the individual platform worker.

New Occupational Health and Safety Regulations

New Regulation or Official Guidance

Authors: Marija Gregoric, Partner, and Matija Skender, Senior Associate – Babic & Partners Law Firm

The Croatian Ministry of Labor enacted three regulations in the field of occupational health and safety governing protection of workers who are exposed at work to either vibrations, noise or hazardous chemicals. All three regulations became effective on December 21, 2023. Click to review regulations over [vibrations](#), [noise](#) and [hazardous chemicals](#) in the workplace.

New Guidelines on Personal Data Processing in Employment Relationships

New Regulation or Official Guidance

Authors: Marija Gregoric, Partner, and Matija Skender, Senior Associate – Babic & Partners Law Firm

In early December 2023 the Croatian Data Protection Agency published [Guidelines on Personal Data Processing in Employment Relationships](#). The Guidelines provide an overview of the main responsibilities and obligations for both employers and employees regarding data privacy in employment. The most important issues covered by the guidelines include data processing in general, transparency and records, data processing in the recruitment process, former employees' data, and data processing via GPS and video surveillance.

Denmark

European Court of Justice Ruling on Overtime Pay for Part-time Employees

Precedential Decision by Judiciary or Regulatory Agency

Authors: Bo Enevold Uhrenfeldt, Partner, and Maria Nordahl Hansen, Associate – Littler | enevold

On October 19, 2023, the European Court of Justice issued a ruling precluding national legislation and collective bargaining agreements from requiring part-time employees to work the same number of hours as comparable full-time employees to receive overtime pay.



Supreme Court Ruling on Termination of Salaried Employee with Reduced Notice Due to Long-term Sick Leave

Precedential Decision by Judiciary or Regulatory Agency

Authors: Bo Enevold Uhrenfeldt, Partner, and Maria Nordahl Hansen, Associate – Littler | enevold

Employees subject to the Danish Salaried Employees Act may – upon individual agreement – be terminated with a reduced notice of one month after 120 days of paid sick leave within 12 consecutive months. On December 19, 2023, the Danish Supreme Court [ruled](#) that the termination of an employee with reduced notice following 123.17 days of paid sick leave violated the Act. In the case before the court, the employee had fully resumed work for a period of time after the 120th day of sick leave before resuming to sick leave. The Supreme Court emphasized that for the rule to apply 1) the termination must be given no later than 10 days after 120 days of paid sick leave, and 2) the employee must continuously be on sick leave at the time of termination. The termination in question was therefore not compliant with the rule, and the employee was entitled to the usual notice.

Short-Term Work Permit Exemption for Foreigners Working for Denmark-Affiliated Foreign Companies

New Regulation or Official Guidance

Authors: Bo Enevold Uhrenfeldt, Partner, and Maria Nordahl Hansen, Associate – Littler | enevold

New regulations issued on November 17, 2023, allow foreign nationals to work for Denmark-affiliated foreign companies without a work permit for two separate periods of up to 15 business days within a 180-day period. The Danish company with whom the foreign company is affiliated must have at least 50 employees and, to be exempt, the employee must have at least 14 days outside of Denmark in between the working periods.

In the following industries the exemption only applies to employees performing management work or work requiring intermediate or high-level knowledge: construction, agriculture, forestry and horticulture, cleaning, hotel and catering, and transportation of goods by road.

Proposed Act to Change to the Danish Act on Working Time

Proposed Bill or Initiative

Authors: Bo Enevold Uhrenfeldt, Partner, and Maria Nordahl Hansen, Associate – Littler | enevold

A bill that would amend the Danish Act on Working Time to 1) allow deviation from rules on maximum weekly working hours in selected areas of the labor market and 2) require employers to register employees' working hours is pending in Parliament. If passed, the bill would go into effect in July 2024.

Finland

Employee's Work-Related Legal Expenses Considered Taxable Income

Precedential Decision by Judiciary or Regulatory Agency

Authors: Samuel Kääriäinen, Partner and Head of Employment, and Noora Ollitervo, Associate – Dottir Attorneys Ltd

The Supreme Administrative Court recently held that payments made by an employee's employer to cover defense costs in work-related litigation were a taxable economic benefit equivalent to salary.



Employer Could Not Unilaterally Change Working Hours Clause

Precedential Decision by Judiciary or Regulatory Agency

Authors: Samuel Kääriäinen, Partner and Head of Employment, and Noora Ollitervo, Associate – Dottir Attorneys Ltd

In a case involving employees covered by a collective bargaining agreement, the Supreme Court of Finland held that the employer could not unilaterally change the employees' working hours from shift work hours to regular work hours. The court also held that the employer could not introduce an unpaid meal break, despite previous practices allowing employees to eat during work hours.

Referring to previous legal precedents, the Supreme Court held that a binding clause regarding working hours is an essential contractual provision that cannot be unilaterally changed by the employer.

Employers Can Pursue Provisional Measures to Enforce Non-competition Agreements

Precedential Decision by Judiciary or Regulatory Agency

Authors: Samuel Kääriäinen, Partner and Head of Employment, and Noora Ollitervo, Associate – Dottir Attorneys Ltd

In another recent ruling the Supreme Court held that a non-compete agreement made at the beginning of or during employment does not constitute an exception to the general rule prohibiting breach of contract. Accordingly, the court held, an employer can pursue provisional measures, such as an injunction, to enforce a non-compete agreement.

Claims Made under a Collective Agreement Not Governed by the Limitation Period Set Out in the Working Hours Act

Precedential Decision by Judiciary or Regulatory Agency

Authors: Samuel Kääriäinen, Partner and Head of Employment, and Noora Ollitervo, Associate – Dottir Attorneys Ltd

In a case involving a claim by an employee covered by a collective bargaining agreement, the Supreme Court held that the two-year statute of limitations in the Working Hours Act did not apply because the claims were based on the collective agreement's terms, not the Act's provisions.

Government Reforms Cause Industrial Strikes

Trend

Authors: Samuel Kääriäinen, Partner and Head of Employment, and Noora Ollitervo, Associate – Dottir Attorneys Ltd

Industrial strikes have recently occurred in response to the government's proposed and partially implemented labor measures. Labor unions oppose the government's labor reforms and reductions in unemployment benefits, and the government's efforts to limit the right to strike by restricting the maximum strike duration for political strikes, prohibiting support strikes deemed disproportionate, and increasing fines for illegal strikes. More strikes are to be expected, as labor unions are announcing planned strikes for the start of 2024.



France

New Profit-Sharing Act of November 19, 2023

New Legislation Enacted

Author: Maya Beauville, Associate – Littler France

A new Profit-Sharing Act adopted on November 19, 2023, sets a deadline of January 1, 2025, for companies with at least 11 employees to implement a mandatory profit-sharing program if they have a pre-tax net profit of at least 1% for three consecutive years. This requirement will last for five years as an experiment, although it is to be expected that this new obligation will continue after that. A whopping 48,000 companies will have to comply with this new requirement.

There are a number of options that companies can choose from to comply with the new requirement:

- a voluntary profit-sharing scheme (*intéressement* or *participation*),
- a contribution by the company to a company savings plan (PEE) or a pension plan (PER), or
- a value-sharing bonus (PPV).

Additional details are available on [Littler.com](https://www.littler.com).

Transcript of Recordings Made Without Employee's Consent Can Be Admissible Evidence

Precedential Decision by Judiciary or Regulatory Agency

Author: Guillaume Desmoulin, Partner – Littler France

The French Supreme Court (*Cour de cassation*) recently overturned a ruling excluding the transcript of recordings made by an employer without an employee's consent in a case involving dismissal of the employee for gross misconduct. The Court ruled that unlawfulness or unfairness in obtaining or producing evidence does not necessarily require its exclusion from court proceedings. Rather, the judge must assess whether the evidence undermines the fairness of the proceedings as a whole, balancing the right to the evidence against the conflicting rights at stake and assessing whether the evidence is indispensable and the infringement on opposing rights is proportionate to the aim pursued.

Employers Must Detail the Economic Reasons for Proposing Contract Modifications

Precedential Decision by Judiciary or Regulatory Agency

Author: Guillaume Desmoulin, Partner – Littler France

In another recent case, the French Supreme Court (*Cour de cassation*) found that the employer failed to demonstrate the existence of economic difficulties or technological change as the reasons for its proposed modification of an employment contract. Accordingly, the modifications could not be enforced.

Exclusion of Stock Options and RSUs in the Calculation of Severance

Precedential Decision by Judiciary or Regulatory Agency

Author: Morgane Bocquet, Associate – Littler France

For several years, there has been uncertainty regarding whether stock options and restricted stock units (RSUs) are to be included in the calculation of termination pay. The French Supreme Court has now definitely put an end to this uncertainty in its November 15, 2023, ruling, holding that neither should be taken into account when calculating severance pay upon termination of an employment contract. Additional details are available on [Littler.com](https://www.littler.com).



Germany

New Regulations for the Immigration of Skilled Workers in Germany

New Legislation Enacted

Author: Svenja Gaida, Senior Associate – vangard | Littler

Given the continuing demand for skilled workers and specialists from abroad (especially from non-EU-countries), Germany has made changes to its immigration law. Effective November 18, 2023, the salary threshold for the EU Blue Card (which is basically the EU-equivalent of the U.S. Green Card) will be significantly lower. In addition, a wider group of employees can apply for an EU Blue Card. For example, IT specialists without a university degree but with three years of comparable professional experience will now be able eligible to apply for the card. Also, holders of EU Blue Cards issued by another EU member state will be allowed to perform business activities in Germany directly related to their employment in the other EU member state for up to 90 days. Another major change is that skilled workers may now take any qualified employment, with the Federal Employment Agency's consent, not just positions linked to their professional qualifications.

Further changes will follow: There will be expanded work-permit-options for skilled workers with highly developed practical professional knowledge in March 2024 and a job search opportunity visa enabling jobseekers to stay in Germany and search for employment beginning in June 2024.

General Minimum Wage Increases in 2024 and 2025

New Legislation Enacted

Author: Dr. Philipp Melle, Associate – vangard | Littler

As of January 1, 2024, the general minimum wage will be EUR 12.41 and will increase to EUR 12.82 on January 1, 2025. The monthly salary limit for so-called mini jobs will be EUR 538.00 as of January 1, 2024, and will increase to EUR 556.00 on January 1, 2025.

There are higher sector-specific minimum wages (e.g., for cleaning staff, care workers and temporary workers), which are also mandatory and will also increase in some cases on January 1, 2024.

Sanctions for Formal Errors in Mass Dismissal Notices May Be Lifted

Proposed Bill or Initiative

Author: Philipp Schulte, Associate – vangard | Littler

In Germany, the law imposes very strict requirements for notices to the German Employment Agency of a mass dismissal (defined as the dismissal of 8% of the workforce or more, depending on the size of the workforce). Some German labor courts have held that if there are mistakes in the mass dismissal notice, even materially irrelevant ones, the terminations are invalid.

On December 14, the Sixth Senate of the German Federal Labor Court issued a press release indicating that they have initiated a process to ease the formal process of mass dismissal. Employers should look out for the decision, which is expected to be issued in 2024. Until then, it continues to be important to comply with all requirements when drafting the required notices of a mass dismissal.

Disabled Persons May Limit the Age Range of Applicants in the Search for a Personal Assistant

Precedential Decision by Judiciary or Regulatory Agency

Author: Kim Kleinert, Associate – vangard | Littler

A 50-year-old applicant who was rejected for a position to assist a 28-year-old disabled person sued for age discrimination. In the ruling of December 7, 2023, Ref. C-518/22, the European Court of Justice emphasized that German legislation expressly stipulates that the individual needs of people with disabilities must be considered



when hiring for a personal assistance services position. Accordingly, the court held, disabled persons must be able to decide for themselves how, where and with whom they would like to live. A stated preference for assistants of a certain age group is also appropriate to promote greater respect for people's right to self-determination, the court stated. Accordingly, the job advertisement restricting applicants to a certain age group was therefore justified in this case.

Increased Requirements for the Evidential Value of Sick Notes

Precedential Decision by Judiciary or Regulatory Agency

Author: Andre Gieseler, Partner – vangard | Littler

On November 9, 2023, the German Federal Labor Court (*Bundesarbeitsgericht*) published decision Ref. No. 5 AZR 335/22, ruling that an employer can undermine the evidentiary value of a sick note, certifying the incapacity of an employee to work if the physician violates the regulation on sick leave (*Arbeitsunfähigkeits-Richtlinie: AURL*) when issuing it.

Physicians may still serve as witnesses in court to confirm or present facts to prove that an employee has actually been sick, and rulings will be made on a case-by-case basis.

This decision is in line with two other recent employer-friendly decisions by the Federal Labor Court regarding the evidentiary value of sick notes.

Guatemala

Guatemalan Minimum Wage Increases

New Order or Decree

Author: Marco Arias, Partner – BDS, Member of Littler Global

The following increases in minimum wages became effective across the country on January 1, 2024:

Economic Zone 1 (Guatemala Department):

- 6.0% for agricultural activities
- 6.6% for non-agricultural activities
- 6.6% for maquilas and exports

Economic Zone 2 (Guatemala Department):

- 4.3% for agricultural activities
- 4.6% for non-agricultural activities
- 3.6% for maquilas and exports



Hungary

Certificate on Paternal and Parental Leave Cancelled

New Legislation Enacted

Author: Zoltán Csernus, Attorney-at-Law – VJT & Partners Law Firm

The Labor Code was amended, effective January 1, 2024, to cancel the requirement that an employer issue an employee a certificate with the number of days of paternal and parental leave used by the employee at the current employer and also at previous employers within five working days of an employee's termination of employment.

New Holiday Rules as of January 1, 2024

New Legislation Enacted

Author: Zoltán Csernus, Attorney-at-Law – VJT & Partners Law Firm

New holiday rules take effect as of January 1, 2024, including the additional statutory paid annual holiday based on the employee's number of children and the employer's obligation to provide parental leave based on the employee's request. The employee has to file its request with a 15 days' notice.

Enhanced Rights of the New Trade Unions

Precedential Decision by Judiciary or Regulatory Agency

Author: Zoltán Csernus, Attorney-at-Law – VJT & Partners Law Firm

The Constitutional Court declared unconstitutional and cancelled a rule in the Labor Code that limited the rights of a new trade union to renegotiate a collective bargaining agreement after negotiations for the CBA with the prior trade union had already concluded.

India

Haryana Law Reserving Certain Vacancies for Local Candidates, Declared Unconstitutional

Precedential Decision by Judiciary or Regulatory Agency

Authors: Vikram Shroff, Partner and Head of Employment, and Nipasha Mahanta, Associate – Nishith Desai Associates

The Punjab & Haryana High Court declared the Haryana State Employment of Local Candidates Act, 2020 (HSELC Act), which reserved 75% of certain vacancies for local candidates, unconstitutional.

In its [judgment](#) in *IMT Industrial Association and Another v. State of Haryana and Another* (MANU/PH/2939/2023) dated November 17, 2023, the court found that limiting employers' discretion to choose their workforce based on their residence undermined the value of "India as a Nation" and concluded that the powers of the state legislature cannot be detrimental to the national interest and impose an unreasonable restriction on an individual's right of free movement throughout India in violation of the Constitution. Consequently, employers no longer need to employ only locally domiciled candidates in the state.

The Supreme Court of India Holds that Maternity Benefits Can Be Extended Beyond Contractual Term

Precedential Decision by Judiciary or Regulatory Agency

Authors: Vikram Shroff, Partner and Head of Employment, and Nipasha Mahanta, Associate – Nishith Desai Associates

The Supreme Court has opined that maternity benefits can extend beyond the contractual period for employees on a fixed-term contract. The employee in the case challenged the company's action to cut off her maternity leave when her employment contract ended.



On appeal, the Supreme Court [ruled](#) that section 12(2(a) of the Maternity Benefit Act, 1961 (MBA) “contemplates entitlement to the benefits under the 1961 Act even for an employee who is dismissed or discharged at any time during her pregnancy if the woman, but for such discharge or dismissal, would have been entitled to maternity benefits or medical bonus. Thus, continuation of maternity benefits is built in the statute itself, where the benefits would survive and continue despite the cessation of employment.” The court further held that eligibility for maternity benefits is based on the fulfilment of the conditions specified in section 5(2) of the MBA and therefore, such benefits can extend beyond the term of employment and is not co-terminus with the employment tenure.

Central Government Allows “Hybrid Working” for SEZ Employees until December 2024

New Regulation or Official Guidance

Authors: Vikram Shroff, Partner and Head of Employment, and Nipasha Mahanta, Associate – Nishith Desai Associates

New Special Economic Zone (SEZ) rules allow specified employees, particularly those in IT services, or who are temporarily incapacitated, travelling, or working offsite, to engage in hybrid work from any location outside the SEZs until December 31, 2024, based on their needs and subject to the satisfaction of certain conditions.

Among other things, employers must inform the district commissioner of implementation of the hybrid work model.

Telangana State Exempts IT/ITeS Employers from Certain Provisions of Shops and Establishments Law

New Regulation or Official Guidance

Authors: Vikram Shroff, Partner and Head of Employment, and Nipasha Mahanta, Associate – Nishith Desai Associates

Amendments to the Telangana Shops and Establishments Act, 1988 (TSEA) exempts IT employers from certain provisions relating to opening and closing hours, daily and weekly working hours, and the prohibition on engaging female employees at night and on holidays, subject to these conditions:

- A weekly cap of 48 work hours, beyond which overtime must be paid;
- Weekly days off;
- Adequate security for women employees on night shifts, including transportation between the office and their residences, pre-employment screening and bio-data collection of drivers, formally approved schedules for pick up and drop off routes, protection of personal information, security guards for night shift vehicles, control room/travel desk monitoring of vehicle movements;
- Compensatory paid time off for employees working on holidays;
- Employers to maintain integrated register in soft copies (if various statutory registers are not being maintained in hard copies) as per the Government's [notification](#).



Indonesia

Minimum Wages

New Regulation or Official Guidance

Author: Indrawan Dwi Yuriutomo, Senior Associate – SSEK Law Firm

Amendments to Government Regulation No. 36 of 2021 concerning wages provides that the minimum wage for provinces and districts/cities will be adjusted every year based on economic growth, inflation and certain other indices. Provincial governors must determine the provincial minimum wage by November 21 and district/city minimum wages by November 30 of each year and the new minimum wage will take effect as of January 1 of the following year.

The monthly minimum wage for DKI Jakarta in 2024 will be IDR 5,067,381, an increase of 3.6% from 2023.

Ireland

Domestic Violence Leave Under the Work Life Balance Act

New Legislation Enacted

Authors: Niall Pelly, Partner, and Lisa Collins, Associate – GQ Littler

Domestic violence leave in Ireland was introduced in the Work Life Balance and Miscellaneous Act 2023 earlier this year and commenced on November 27, 2023. Employees who are experiencing or have experienced domestic violence are entitled to up to five days' fully paid leave in a 12-month period. The purpose of the leave is to enable employees who have experienced domestic violence or their spouse, dependent child, cohabitant or another dependent person to:

- seek medical advice
- attend a victim services organization
- obtain counseling
- seek advice from legal practitioners or the Gardaí
- avail of a range of other services

Employees can obtain this leave retrospectively without advance notice, but they must notify their employer as soon as reasonably practicable, and no documentary evidence is required.

Supreme Court Provides Guidance on Employee Status

Precedential Decision by Judiciary or Regulatory Agency

Authors: Niall Pelly, Partner, and Lisa Collins, Associate – GQ Littler

A recent Supreme Court decision has set out a new five-step test for determining whether a worker is an employee or an independent contractor. The first three steps of the test are determinative: (1) Does the contract involve the exchange of wage or other remuneration for work? (2) If so, does the agreement involve the worker's personal services to the employer, rather than those of a third party? and (3) Does the employer exercise sufficient control over the worker to render the agreement an employment agreement? If any one of these factors is absent, then there is no contract of employment.



If these three factors are present, the final steps of the test come into play. The fourth step requires determining whether the contract terms are consistent with an employment relationship, considering the facts and working relationships, and the fifth step assessing the applicable legal framework.

Protected Disclosures Reporting Obligations

Legal Compliance

Authors: Niall Pelly, Partner, and Lisa Collins, Associate – GQ Littler

Under the Protected Disclosures Act 2014 (as amended by the Protected Disclosures (Amendment) Act 2022), as of January 1, 2023, private sector employers with 250 or more employees were required to establish internal reporting channels and procedures to enable workers to make protected disclosures. Employers with between 50 and 249 employees benefitted from a transition period until December 2023. As of December 17, 2023, private sector companies with 50 or more employees must comply with this requirement to establish internal reporting channels.

Italy

New Law Prohibits Requesting Past Oncology Information

New Legislation Enacted

Authors: Carlo Majer, Partner, and Elisabetta Rebagliati, Senior Associate – Littler Italy

A new law prohibits requesting information regarding past oncology conditions in employment agreements. The relevant period covered by the rule is 10 years from the end of active treatment without episodes of recurrence, reduced by half if the condition arose before the age of 21.

For contracts entered into on or after January 2, 2024, violation of these rules will result in nullification of the unlawful clause, but not nullification of the contract, which will remain otherwise valid and effective.

Remote Work for Parents and Frail Employees

New Order or Decree

Authors: Carlo Majer, Partner, and Alessandra Pisati, Associate – Littler Italy

The right to work remotely has been extended to March 31, 2024, for the following employees:

- Parents in the private sector who have at least one child under the age of 14, provided that:
 - The other parent is an employee and is not a beneficiary of income support; and
 - Working remotely is compatible with the employee's work activity.
- Those at greater risk of infection with the SARS-CoV-2 virus, due to age or conditions resulting from immunodepression, oncological disease, life-saving therapies or comorbidities with conditions that create greater risk of infection, provided that:
 - The assessment of the risk has been carried out by a competent physician as part of health surveillance; and
 - Working remotely is compatible with the employee's work activity.



Employer's Obligation to Respond to Employee Requests for Access to Personal Data

Precedential Decision by Judiciary or Regulatory Agency

Authors: Carlo Majer, Partner, and Alessandra Pisati, Associate – Littler Italy

In recent decisions the Privacy Authority affirmed that companies must promptly respond to employee requests for access to their personal data, including providing reasons for denial of access, and informing them of the right to file a complaint with the Privacy Authority or an appeal to the judicial authority.

Whistleblowing: As of December 17, 2023, New Reporting Obligations

Legal Compliance

Authors: Carlo Majer, Partner, and Elena Guerrera, Associate – Littler Italy

As of December 17, 2023, companies that employed an average of 50 to 249 employees in the last year must comply with the whistleblowing reporting requirements provided for by Legislative Decree 24/2023. These companies must now also activate a whistleblowing reporting channel that: (i) guarantees, including through the use of encryption tools, the confidentiality of the person reporting, the persons involved in the report, and the content of the report; (ii) allows for written and oral reporting; and (iii) is independent and autonomous (whether internal/external).

To simplify obligations and contain costs, the law allows companies with up to 249 employees to enter into agreements with other entities to manage the reports, while still ensuring compliance with the law's confidentiality requirements.

Kingdom of Saudi Arabia

Training Data Disclosure Requirement

Important Action by Regulatory Agency

Authors: Sara Khoja, Partner and Head of Employment, and Sarit Thomas, Knowledge Management Counsel – Clyde & Co

Companies that employ 50 or more workers will now be required to report training hours, training plans, activity reports, trainee numbers and budget allocation for the following year. Non-compliant employers will be subject to fines ranging between SAR 5,000 to SAR 15,000.

Saudization of Dental Professions

Important Action by Regulatory Agency

Authors: Sara Khoja, Partner and Head of Employment, and Sarit Thomas, Knowledge Management Counsel – Clyde & Co

The Ministry of Human Resources and Social Development, in partnership with the Ministry of Health, announced that the Saudization of 35% of the dental profession will take effect as of March 10, 2024.

Online "Service Certificate" Now Available for Private Sector Employees

Important Action by Regulatory Agency

Authors: Sara Khoja, Partner and Head of Employment, and Sarit Thomas, Knowledge Management Counsel – Clyde & Co

An online service certificate facility is now available for employees within the private sector through the Qiwa electronic platform. The goal is to streamline administrative processes, enhance efficiency, and enhance workplace dynamics and employee rights in the private sector. With this new online service, obtaining and issuing service certificates will become faster, more accessible, and less burdensome for businesses.



Qiwra Electronic Contract Provision Regarding Probation Period

Legal Compliance

Authors: Sara Khoja, Partner and Head of Employment, and Sarit Thomas, Knowledge Management Counsel – Clyde & Co

The Qiwra platform has amended the electronic contract provision to provide for a maximum probationary period of 90 days in accordance with the Labor Law and to enforce the requirement for parties to mutually agree to any extension of the original 90-day period.

Malaysia

New Requirements for Trade Unions

New Legislation Enacted

Authors: Selvamalar Alagaratnam, Partner and Head of Employment, and Teng Wei Hun, Senior Associate – Skrine

New amendments to the Trade Unions Act 1959 were enacted in October 2023. These amendments aimed at easing the restrictions for union formation include:

- Allowing trade unions to be established across trade, occupation or industry;
- Empowering the Director General of Trade Unions (DG) to require information or documents regarding registered trade unions for purposes of maintaining a trade union register;
- Allowing the formation of multiple trade unions within the same establishment, trade, occupation or industry;
- Requiring the DG to inform a trade union in writing of any refusal to register the trade union, including the grounds for refusal;
- Limiting the grounds on which the DG may cancel or withdraw the registration certificate of a trade union;
- Removing the power of the DG to suspend a branch of a trade union;
- Lowering the number of trade union member votes required in a secret ballot for a proposed strike or lock-out; and
- Prohibiting restriction of membership in a trade union to those of a particular race, religion or nationality.

The effective date of the amendments have yet to be announced.

Employment Related Implications of 2024 Budget

New Legislation Enacted

Authors: Selvamalar Alagaratnam, Partner and Head of Employment, and Teng Wei Hun, Senior Associate – Skrine

The newly enacted 2024 Budget, known as the “Supply Bill,” includes key employment-related provisions, including:

- Extending to Financial Year 2028 the income tax exemption on employment income for women returning to work after a career break;
- A special income tax rate of 15% for three consecutive years will be granted to a maximum of three non-citizen individuals in key or C-suite positions who earn a monthly salary of at least RM 35,000, in a new company approved for the Global Services Hub tax incentive;



- An increase in the monthly wage ceiling for Social Security Organization (SOCSO) contributions from RM 5,000 to RM 6,000;
- A monthly incentive of up to RM 1,500, for up to six months to be given by SOCSO to employers who hire individuals from vulnerable groups, such as disabled people, ex-convicts and senior citizens;
- Various measures aimed at upskilling and training, including an allocation of RM 6.8 billion for technical and vocational education and training.

Mexico

Increased Minimum Wage

New Order or Decree

Authors: Monica Schiaffino, Shareholder, and Valeria Cutipa Hernandez, Associate – Littler

Effective January 1, 2024, the national general minimum wage increased to \$248.93 pesos per day, and \$374.89 pesos per day in the Free Economic Zone of the Northern Border. This represents a 20% increase in both zones. Companies must review and adjust their payroll practices to comply with this new minimum wage increase, which could also affect benefits such as the savings fund and food coupons depending on how these benefits have been agreed upon with employees and unions. Review additional details on [Littler.com](https://www.littler.com).

Netherlands

New Hourly Minimum Wage System and Minimum Wage Raised as of January 1, 2024

New Legislation Enacted

Authors: Michelle Engberts, Associate, and Eva Schneiders, Associate – Clint | Littler

As of January 1, 2024, there will no longer be a monthly, weekly or daily minimum wage. Employers will be required by law to pay workers at least the hourly minimum wage which is the same for all employees aged 21 years and over. Employees younger than 21 years will receive an hourly minimum wage based on the mandatory hourly minimum, as in 2023.

In January and July of every year the statutory minimum wage is indexed. On January 1, 2024, the statutory minimum wage will increase by 3.75 % and will be EUR 13.27 gross per hour for fulltime employees ages 21 years and over.

Companies with More than 100 Employees Must Report Work-Related Fuel Emissions

New Legislation Enacted

Authors: Michelle Engberts, Associate, and Eva Schneiders, Associate – Clint | Littler

As of July 2024, employers with more than 100 employees will have to start tracking their employees' CO2 emissions. This will require employers to record the number of miles employees traveled, the means of transportation used, and the type of fuel used, especially for commuting.

Increased Protection for Whistleblowers

New Legislation/Legal Compliance

Authors: Michelle Engberts, Associate, and Eva Schneiders, Associate – Clint | Littler

The Whistleblowers Protection Act that went into effect on February 18, 2023, for companies with at least 250 employees now will apply to companies with 50 to 249 employees. The law has been modified to include additional protection and requirements.



Specifically, whistleblowers who have suffered retaliation will no longer have to prove that they were disadvantaged because of their report. The burden of proof will shift to the employers who will have to prove the disadvantage suffered by the employee is not related to reporting of suspected misconduct or violations. The scope of consequences suffered by employees will be broadened to include, among other things, intimidation, blacklisting, or bullying. The range of people protected has also been expanded to include not only employees and officials, but also volunteers, interns, self-employed contractors/freelancers, (sub)contractors, shareholders, and job applicants. Additionally, employers will be obliged to have a notification procedure in place that is subject to stricter requirements.

End of the “Unrestricted Substitution” Model Agreement as of January 1, 2024

Precedential Decision by Judiciary or Regulatory Agency

Authors: Michelle Engberts, Associate, and Eva Schneiders, Associate – Clint I Littler

As of January 1, 2024, the Dutch Tax Authority has withdrawn model agreements, used as templates for contractor’s agreements, that provided for “unrestricted substitution,” which allowed the agreed upon work to be performed by others substituting for the contractor.

The model agreements provided that the resulting relationship would not qualify as an employment relationship, and therefore no payroll taxes would be owed.

Bills to Appoint a Confidential Officer in Companies and to Tackle False Self-Employment

Proposed Bill or Initiative

Authors: Michelle Engberts, Associate, and Eva Schneiders, Associate – Clint I Littler

In the Netherlands, all employers have the duty to provide a safe working environment by preventing improper conduct and psychosocial strain among the employees. A bill has been introduced to make it mandatory for organizations with 10 employees or more to appoint a confidential officer (*vertrouwenspersoon*) to whom reports of improper conduct or unwelcome behavior in the workplace could be made. Confidential officers would be legally protected from dismissal or claims of retaliation for performance of their duties.

A separate bill has been introduced to grant more flexibility to entrepreneurs opting for self-employment (*Verduidelijking beoordeling arbeidsrelaties en rechtsvermoeden*) and clarify when a working relationship should be deemed employment and when it is self-employment. In addition, the bill would create a legal presumption that workers with an hourly rate lower than EUR 32.24 have an employment agreement. The employer would then have to prove that there is no employment contract.

Both bills are pending in the Dutch parliament. We will provide updates of any developments.

Norway

New Requirements for Employment Contracts

New Legislation Enacted

Author: Maria Skuggevik Slotnes, Senior Associate – Littler Norway

On December 4, 2023, the Norwegian Parliament adopted several new requirements regarding the content of employment contracts as a result of the Norwegian implementation of the EU Directive on more predictable and secure working conditions (Working Conditions Directive).

The new law adds requirements regarding working hours, salary and other terms of employment. Failure to provide information about the duration or scope of employment for temporary and part-time employees may result in the employee’s right to permanent employment. A new probationary period may not be imposed if an employee



continues to work in a similar position with the same employer. For temporary employees moving to regular employment, the probationary period may not exceed half the duration of the temporary employment.

The new requirements will become effective July 1, 2024.

Panama

Paternality Protections Set to Become Effective as of January 1, 2024 Upon President's Signature

Proposed Bill or Initiative

Author: Yeris Nielsen, Partner – BDS, Member of Littler Global

The Legislature passed a bill to amend the enforcement date of the law providing protections to the employed father of an unborn child when the pregnant mother of the child is unemployed. The law, which protects expectant fathers from termination except for severe misconduct with prior authorization from a judge, provided that it would go into effect when the COVID-19 Emergency Decree was repealed, which has not happened yet.

The new bill that was just approved by the Legislature makes the paternity protections effective as of January 1, 2024, and it is pending to be signed by the President.

Peru

New Rules for Bereavement Leave

New Order or Decree

Authors: César Gonzáles Hunt, Partner, and Amable Vasquez Baiocchi, Associate – Philippi Prietocarrizosa Ferrero DU & Uría

A new regulation provides for five calendar days of paid leave for employees whose spouse, parents, children or siblings have passed away. Employees requesting the leave must notify the employer of the reasons for their entitlement to the leave, as well as the start date and duration of the leave. At the end of the leave, the employee must present documentation proving the relationship with the deceased relative and that the death occurred in a different location than the one where the work center is, if applicable.

Increase of the Tax Unit for the Year 2024

New Order or Decree

Authors: César Gonzáles Hunt, Partner, and Amable Vasquez Baiocchi, Associate – Philippi Prietocarrizosa Ferrero DU & Uría

The Supreme Decree 309-2023-EF approves the value of the Tax Unit (*Unidad Impositiva Tributaria*) for the year 2024, which will be of PEN 5,150.00 (Peruvian soles). This represents an increase of PEN 200.00 (4%) with respect to the value of the Tax Unit for 2023, which has a direct impact, among others, on the calculation of fines imposed by SUNAFIL (Labor Inspection Authority) in case of detection of labor infractions.

By way of example, the infraction corresponding to the employer's failure to comply with a summons appointed by SUNAFIL is classified as very serious and, in a company with 200 employees, it will mean an increase in the fine as follows: PEN 70,191.00 soles in 2023 and PEN 73,027.00 in 2024.



Philippines

2024 Philippine Holidays

New Order or Decree

Authors: Emerico O. de Guzman, Of Counsel, and Franchesca Abigail C. Gesmundo, Senior Associate – Angara Abello Concepcion Regala and Cruz Law Office

By [Presidential Proclamation](#), the following have been declared special non-working days for 2024:

- February 10 – Chinese New Year
- March 30 – Black Saturday
- August 21 – Ninoy Aquino Day
- November 1 – All Saints' Day
- November 2 – All Souls' Day
- December 8 – Feast of the Immaculate Conception of Mary
- December 24 – Christmas Eve
- December 31 – Last Day of the Year

The following are regular holidays:

- January 1 – New Year's Day
- March 28 – Maundy Thursday
- March 29 – Good Friday
- April 9 – Arawng Kagitingan (Day of Valor)
- May 1 – Labor Day
- June 12 – Independence Day
- August 26 – National Heroes Day (Last Monday of August)
- November 30 – Bonifacio Day
- December 25 – Christmas Day
- December 30 – Rizal Day

The appropriate holiday pay or holiday pay premium must be paid to employees who work on a regular holiday or special non-working day.



Poland

Health and Safety at Workplaces Equipped with Screen Monitors

New Legislation Enacted

Authors: Miłosz Awedyk, Partner, and Michał Fijak, Associate – PCS | Littler

A new version of the ordinance on health and safety at work, applicable where workstations are equipped with screen monitors, has been issued. The changes affect employees performing office work, including those working remotely. The most important change is the redefinition of a “workstation:” A workspace with basic equipment, including a screen monitor, keyboard, mouse or other input devices, software with a user interface, a chair, table and other additional equipment such as a printer.

Employers have an obligation to properly equip an employee’s workstation and ensure the employees’ comfort and safety while working.

Draft Act on Professional Activity

Proposed Bill or Initiative

Authors: Miłosz Awedyk, Partner, and Michał Fijak, Associate – PCS | Littler

A proposed bill, which has been submitted to the Economic Committee of the Council of Ministers, addresses the following, among others things: the issue of the huge number of employees from Ukraine, the problem of the inefficiency of labor offices, as well as issues of activating the economically inactive and optimizing the use of financial assistance forms.

Reinstatement of Former Employees During Legal Proceedings Challenging Their Termination

Trend

Authors: Miłosz Awedyk, Partner, and Michał Fijak, Associate – PCS | Littler

New laws requiring reinstatement of former employees during legal proceedings challenging the termination of their employment have been widely criticized. Critics suggest thorough reasoning and individual in-depth examination of the criteria for re-employment should be undertaken.

Portugal

New Framework for Worker’s Compensation Funds

New Legislation Enacted

Authors: David Carvalho Martins, Partner and Head of Employment, and Tiago Sequeira Mousinho, Associate – DCM | Littler

As of January 1, 2024, a new framework for funding workers compensation went into effect, and employers are no longer required to contribute to a workers compensation fund for employees.

New Decision on Vacation Scheduling

Precedential Decision by Judiciary or Regulatory Agency

Authors: David Carvalho Martins, Partner and Head of Employment, and Tiago Sequeira Mousinho, Associate – DCM | Littler

A new decision by the Portuguese Supreme Court of Justice held that an employee could not be dismissed for rescheduling vacation, in response to the employer’s request, when the employer did not disagree with the rescheduling proposal.



The Portuguese Ombudsman Requested that the Ban on Outsourcing should be Declared Unconstitutional by the Constitutional Court

Important Action by Regulatory Agency

Authors: David Carvalho Martins, Partner and Head of Employment, and António Monteiro Fernandes, Of Counsel – DCM | Littler

The Portuguese Ombudsman has asked the Constitutional Court to rule that the ban on outsourcing work after employees are terminated through collective dismissal or elimination of their position is unconstitutional due to excessive and illegal restriction on fundamental rights, such as private property and free economic initiative/enterprise rights. We must now await the Constitutional Court's ruling.

Puerto Rico

New Puerto Rico Military Code: What Employers Should Know

New Legislation Enacted

Authors: Erika Berríos-Berríos, Capital Member, and Irene Viera Matta, Associate – Schuster LLC Littler

On August 8, 2023, Puerto Rico enacted Act No. 88-2023, known as the “Puerto Rican Military Code of the 21st Century.” This new law supersedes the previously enacted Military Code of Puerto Rico from 1969. This new code provides for some important amendments, such as special leave for both private and public employees and modifies reemployment requirements.

This new law addresses an armed forces member's entitlement to protected military leave and reinstatement rights.

Noncompliance with the new Military Code dispositions may result in \$5,000 fines per infraction, imprisonment for up to three years, or both penalties at the discretion of the court. The statute of limitations for claims regarding infractions of this Military Code was increased from six months to one year from the termination or discriminatory act. Additional details are available on [Littler.com](https://www.littler.com).

Sports-Related Employment Law Updates in Puerto Rico

New Legislation Enacted

Author: Erika Berríos-Berríos, Capital Member – Schuster LLC Littler

A new law in Puerto Rico provides several pay and anti-discrimination protections for pregnant athletes. A separate sports-related employment law extends leave protections for eligible athletes, coaches and specialized personnel who are absent from their jobs to represent Puerto Rico in official sports competitions.

Russia

Bill Seeks to Change System for Hiring Foreign Workers

Proposed Bill or Initiative

Authors: Mateusz Krajewski, Associate, and Marcin Snarski, Senior Associate – PCS | Littler

A new bill has been submitted to the State Duma, to require work permit from all foreign workers. Currently, some foreign workers can be hired through a simplified system and are not required to hold a regular work permit.

From a tax perspective, the bill proposes to subject all foreign employees to pay a regular income tax at the rate of 13%. This would increase the tax burden for foreigners working in Russia.



Working Week Modifications

Proposed Bill or Initiative

Authors: Mateusz Krajewski, Associate, and Marcin Snarski, Senior Associate – PCS | Littler

According to a new bill, Friday may become a reduced working day on a permanent basis. The bill proposes to reduce by one hour the length of the working day on Fridays immediately preceding a weekend. Thus, the normal working hours will be reduced to 39 hours per week instead of the current 40 hours.

Currently, reduced working hours only apply to the work day immediately preceding a public holiday.

New Limitations on the Number of Foreign Employees

Proposed Bill or Initiative

Authors: Mateusz Krajewski, Associate, and Marcin Snarski, Senior Associate – PCS | Littler

A new bill submitted to the State Duma would limit the permissible number of foreign employees to 5% of the total number of employees for each type of economic activity provided for by the All-Russian Classifier of Types of Economic Activities. The bill would also establish a prohibition on the employment of foreign employees in certain areas (e.g., medication sales in retail pharmacies, retail trade in non-stationary trade facilities and markets, construction, etc.).

Changes to the Deadlines for Challenging Wrongful Dismissal

Proposed Bill or Initiative

Authors: Mateusz Krajewski, Associate, and Marcin Snarski, Senior Associate – PCS | Littler

The State Duma will examine a bill extending the deadline for filing claims for wrongful dismissal from one to two months. The deadline is calculated from the date of receipt of a copy of the dismissal order or the employment record book.

Sweden

Policy on Religious Symbols

Precedential Decision by Judiciary or Regulatory Agency

Author: Anna Jerndorf, Partner and Head of Employment – TM & Partners

In case AD 2023 no. 71 the Swedish Labor Court recently examined a policy that, among other things, prohibited a security guard from wearing a Muslim headscarf when she was working. The main purpose of the company's policy was to reduce the risk of threats and violence against employees in the workplace. The company's policy prohibiting religious symbols was considered appropriate and necessary based on its risk assessment of the work environment. Accordingly, the Labor Court concluded, the policy did not violate the prohibition of discrimination on the basis of sex and religion and therefore the employee had not been discriminated against, either directly or indirectly.



Company's Vaccination Policy Declared Lawful Precedential Decision by Judiciary or Regulatory Agency

Author: Anna Jerndorf, Partner and Head of Employment – TM & Partners

The Swedish Labor Court recently ruled that a health care company policy requiring COVID-19 vaccination for staff working in close contact with patients in the company's geriatric operations did not violate either the collective bargaining agreement or the Employment Protection Act. Employees who had not been vaccinated in accordance with the vaccination policy were not considered to be at the employer's disposal and were therefore not paid their salary during the period in question.

The Labor Court held that less intrusive measures would have resulted in a greater risk of spreading COVID-19 and thus the implementation of the vaccination policy was proportionate under the circumstances.

Switzerland

Planned Revision of the Federal Act on the Elimination of Discrimination against Persons with Disabilities

Proposed Bill or Initiative

Authors: Ueli Sommer, Partner, and Regula Rhiner, Senior Associate – Littler | LEL

The Federal Council has initiated the procedure to partially revise the Federal Act on the Elimination of Discrimination against Persons with Disabilities to significantly expand the rights of disabled people in private employment relationships.

The proposed revised Act would expressly prohibit direct or indirect discrimination against disabled people in all phases of employment, including the application process. It would obligate employers to take reasonable precautionary measures to prevent, reduce or eliminate disadvantages of disabled people, assessing whether, and which, measures need to be taken. The interests of the disabled person and those of the employer (such as size of the enterprise/company and financial resources) would have to be weighed in each individual case. Affected employees would be entitled to demand precautionary measures and seek compensation in court for discrimination in hiring or termination.

Thailand

2024 Minimum Daily Wage Announced

New Order or Decree

Author: Kraisorng Rueangkul, Partner, and Trin Ratanachand, Associate – DFDL (Thailand) Limited

The 2024 minimum daily wage rate for each province has been adjusted and will take effect from January 1, 2024. Phuket, which is the province with the highest minimum daily wage, now has a THB 370 minimum daily wage, while Bangkok's minimum daily wage is now THB 363. The lowest minimum daily wage provinces are Narathiwat, Pattani and Yala, with the minimum daily wage of THB 330.



United Kingdom

New Obligation for Employers to Prevent Sexual Harassment

New Legislation Enacted

Authors: Jenny Allan, Associate, and Raoul Parekh, Partner – GQ | Littler

The Worker Protection (Amendment of Equality Act 2010) Act 2023 places a new duty on employers to take “reasonable steps” to prevent sexual harassment of their employees in the course of their employment. Employers that fail to comply with this new obligation could face enforcement action by the Equality and Human Rights Commission. Also, if an employee successfully brings a sexual harassment claim in the Employment Tribunal and the employer has failed in this positive duty, any compensation awarded to the employee may be increased by up to 25%. The Act applies to England, Wales and Scotland and is due to go into effect in October 2024, providing time for employers to prepare. The Act is available at legislation.gov.uk.

New Employment Regulations

New Legislation Enacted

Authors: Emily Partridge, Associate, and Raoul Parekh, Partner – GQ | Littler

In the wake of the Retained EU Law (Revocation and Reform) Act 2023 (REUL Act), new regulations in England, Wales and Scotland changed:

1. The recordkeeping requirements under the Working Time Regulations 1998. From January 1, 2024, employers must continue to keep adequate records to show compliance with certain limits (e.g., 48-hour average weekly working limit) but may create, maintain and keep such records in such manner and format as they reasonably think fit and need not record each worker’s daily working hours if they are able to demonstrate compliance without doing so.
2. The requirement to elect employee representatives for information and consultation obligations pursuant to the Transfer of Undertakings (Protection of Employment) Regulations 2006. For transfers taking place on or after July 1, 2024, the requirement to elect employee representatives is removed provided no existing employee representatives are in place for: 1) small businesses (where the employer employs fewer than 50 employees); or 2) businesses of any size where there are a small number transferring employees (fewer than 10).

The Act also changed the rules on vacation, which we discuss in the summary further below. The Act is available at legislation.gov.uk.

Supreme Court Rules That Deliveroo Riders Are Not Employees

Precedential Decision by Judiciary or Regulatory Agency

Authors: Ben Rouse, Associate, and Raoul Parekh, Partner – GQ | Littler

The UK Supreme Court has ruled that riders with Deliveroo, the food delivery company, are not in an “employment relationship” with the company for which they provide services, and are therefore not entitled to rights under Article 11 of the European Convention on Human Rights, which includes rights to form and join trade unions. The Independent Workers’ Union of Great Britain (IWGB), a trade union, applied for collective bargaining rights for the Deliveroo riders, but the lower courts ruled that Deliveroo riders were not entitled to be recognized for collective bargaining as they were not in an “employment relationship.” The Supreme Court agreed.

A key rationale for the [ruling](#) was the riders’ genuine and exercised right to substitute other riders. Other factors considered included that the riders have no set hours of work and are not required to work at all; have no set place of work; tended to have multiple sources of income and the ability to work for competitors; and use their own equipment.



Changes to Vacation Laws

New Regulation or Official Guidance

Authors: Stephanie Compson, Professional Support Lawyer, and Raoul Parekh, Partner – GQ | Littler

The Working Time Regulations 1998 (WTR) regarding vacation laws for England, Wales and Scotland have been amended to:

1. Include European case law principles regarding vacation pay entitlements, and carry-over of unused vacation leave from one year to the next.
2. Create an entirely new category of vacation entitlements for “irregular hours workers” and “part-year workers,” including allowing such workers to accrue vacation leave as they work and permitting employers to choose to pay an increase to a worker’s regular pay as rolled up holiday.
3. Remove rules that had been introduced during the pandemic to permit carry-over of vacation leave when it had not been reasonably practicable for a worker to take such leave due to COVID.

Most changes went into effect on January 1, 2024, but the new entitlements for irregular hours workers and part-year workers go into effect on or after April 1, 2024. The regulations are available at legislation.gov.uk for [England, Wales and Scotland](#) and for [Northern Ireland](#).

United States

New York Enacts Greater Restrictions on Release Agreements Involving Claims of Discrimination, Harassment, or Retaliation

New Legislation Enacted

Authors: Erin Murray, Associate, and Shawn Matthew Clark, Shareholder – Littler

New York law now restricts certain terms from being included in release agreements involving claims of discrimination, harassment, or retaliation.

Most significantly, the law provides that “no release of any claim, the factual foundation for which involves unlawful discrimination, including discriminatory harassment, or retaliation,” shall be enforceable if “the agreement resolving such claim” includes any of the following terms:

1. A liquidated damages provision for the employee’s violation of a nondisclosure clause or nondisparagement clause;
2. A forfeiture provision requiring the employee to forfeit all or part of the consideration for the agreement for violation of a nondisclosure clause or nondisparagement clause; or
3. An affirmative statement, assertion, or disclaimer by the employee that the employee was not subject to unlawful discrimination, harassment, or retaliation.

Additional discussion is available on [Littler.com](https://www.littler.com).



Minimum Wage and Exempt Employee Pay Increased on January 1, 2024, Across the US

New Legislation Enacted

Authors: Sebastian Chilco, Knowledge Management Counsel, and Paul R. Piccigallo, Shareholder – Littler

[The chart on Littler.com](#) includes the generally applicable minimum wages that changed across the country on January 1, 2024. It lists the rate that applied before the change (Pre) alongside the new rate (Post). In certain jurisdictions – excluding, e.g., Alaska, California, Minnesota, Montana, Washington – employers may be able to count tips an employee receives toward the minimum wage. In those jurisdictions that permit a tip credit (TC), if the direct wage an employer pays (minimum cash wage or MCW) and tips an employee earns equals the minimum wage, an employer satisfies its minimum wage obligation, but, if the direct wage plus tips does not equal the minimum wage, an employer must pay the employee the difference.

President Biden Issues Landmark Artificial Intelligence Executive Order

New Order or Decree

Authors: Bradford J. Kelley, Shareholder, and Kellen M. Shearin, Associate – Littler

On October 30, 2023, President Biden issued an “Executive Order on the Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence” to address the growing concerns surrounding the use of artificial intelligence (AI). The 111-page document identifies several areas of concern with the use of AI, including labor, competition, cybersecurity, education, health, and privacy. The order not only calls on federal agencies to work collaboratively, provide more guidance, and conduct training, but it also urges agencies to develop principles and best practices to mitigate the harms and maximize the benefits of AI for workers.

Even though the executive order is largely focused on the federal workforce, private entities are still affected. For example, companies that develop (or intend to develop) AI tools for the federal government are required to provide the government certain information, reports, and records. Additionally, the executive order leverages the federal government’s pocketbook, as one of the largest purchasers of technology, to ensure the compliance of private companies. These federal procurement procedures provide a method for federal agencies to regulate AI indirectly. Additional discussion is available on [Littler.com](#).

Department of Commerce Extends the Data Privacy Framework with UK-U.S. “Data Bridge”

New Regulation or Official Guidance

Authors: Kwabena A. Appenteng, Shareholder, and Philip L. Gordon, Shareholder – Littler

Following on the heels of the launch of the EU-U.S. Data Privacy Framework (DPF) this summer, the U.S. Department of Commerce has extended the DPF to cover transfers of personal data from the United Kingdom (UK) (and Gibraltar) to the United States, in addition to transfers from the European Union to the United States. As of October 12, 2023, employers currently certified to the DPF can expand their certification to cover the transfer to the United States of the personal data of current and former applicants and employees who reside in the UK (UK HR Data).

Multinational employers that are not certified to the DPF should determine whether this cross-border transfer mechanism fits within their existing compliance model for trans-Atlantic data transfers, inclusive of transfers to service providers. For those employers with UK operations that certified to the DPF this summer or were “grandfathered” in, extending the certification to cover the transfer of UK HR Data would be a logical next step. However, employers should consider the following before self-certifying to the Extension: (1) modifications needed for employers already certified to the DPF; (2) timing requirements for DPF-certified employers; (3) transfers to service providers; and (4) transfers of “sensitive” personal data. Additional discussion is available on [Littler.com](#).



NLRB Final Joint-Employer Rule Dramatically Expands Definition of Joint Employment Under the NLRA

New Regulation or Official Guidance

Authors: James A. Paretti, Jr., Shareholder, and Maury Baskin, Shareholder – Littler

On October 26, 2023, the National Labor Relations Board released a final rule setting forth the standard for joint-employer status under the National Labor Relations Act. The final rule, which repeals and replaces the rule adopted in 2020, became effective as of December 26, 2023.

The final rule reestablishes the standard of joint employment, under which one company will be deemed the joint employer of a second company's employees not only where it directly or immediately exercises control over the second company's workforce, but where the first company's putative control is indirect, or even simply reserved but not ever actually exercised. More specifically, under the final rule, two or more employers will be held to be joint employers where they share or codetermine those matters governing employees' essential terms and conditions of employment. The Board defines "share or codetermine" to mean "possess the authority to control (whether directly, indirectly, or both) or to exercise the power to control (whether directly, indirectly, or both) one or more of the employees' essential terms and conditions of employment" (emphases added). Additional details related to consequences for employers are available on [Littler.com](https://www.littler.com).

Venezuela

The Adjustment of the Monthly Food Benefit

New Regulation or Official Guidance

Author: Daniela Arevalo, Associate – Littler

A recent decree indicated the possibility that the National Executive may adjust the amount of the monthly food benefit, called the Socialist Cestaticket, according to exchange rate variations. Although no decree has been published requiring this adjustment, it may eventually be required for employees of private organizations.

Labor Inspections and Supervisions

Important Action by Regulatory Agency

Author: Gabriela Arevalo, Associate – Littler

The Supervision Units, attached to different Labor Inspectorates at the national level, have recently conducted labor inspections for compliance with employer obligations regarding hiring disabled people.

Labor Inspectorates have also been carrying out inspections to verify if wage payment receipts contain separate payment details for rest days not worked and days worked. Payment receipts must detail (i) the days worked with the base salary for the calculation; and (ii) rest days and holidays, with the base salary for the calculation.

Extension of the Period for Updating Data in the INCES

Legal Compliance

Author: Gabriela Arevalo, Associate – Littler

The National Socialist Training Institute (INCES) issued an official notification, that employers have a 45-business-day extension to update their data in the INCES electronic registry through the [online system](#).

Taxpayers have a duty to update their data within the established period under the Law of INCES and the Organic Tax Code. Failure to comply with these duties may result in a sanction of closure for five continuous days and a fine of 100 times the highest value currency published by the Central Bank of Venezuela.



Vietnam

New Caselaw on Non-Disclosure and Non-Compete Agreements

Precedential Decision by Judiciary or Regulatory Agency

Authors: Bernadette Fahy, Partner, and Tran Thi Kim Luyen, Associate – APFL & Partners Legal Vietnam LLC

On November 1, 2023, the Supreme People's Court upheld the validity of a non-disclosure and non-compete agreement based on the principle of freedom to create and undertake civil rights and obligations. The court determined the agreement did not violate any legal prohibitions and held that when a Non-Disclosure Compete Agreement (NDCA) is an independent agreement between the parties with a valid arbitration clause, any dispute regarding the NDCA is within the jurisdiction of commercial arbitrators.

Consequently, employers may prefer separate NDCAs instead of including non-disclosure and non-compete clauses in the employment contracts to ensure that any disputes regarding non-disclosure or the non-compete are resolved by a commercial arbitration tribunal. Disputes under an employment contract must be referred to labor conciliators, a labor court or a labor arbitration tribunal which are more likely to find that a non-compete agreement is contrary to the right of an employee to freely work for any employer, and therefore invalid.

New Regulations Establishing the Vietnamese Chefs Employment and Vocational Training Association

New Order or Decree

Authors: Bernadette Fahy, Partner, and Tran Thi Kim Luyen, Associate – APFL & Partners Legal Vietnam LLC

On December 18, 2023, the Vietnamese Ministry of Home Affairs issued a decision allowing the establishment of the Vietnamese Chefs Employment and Vocational Training Association, a socio-professional organization. The Association has legal entity status, along with its own seal and bank account and shall ensure its own budget, headquarters, and means of operation.

This decision took effect on December 18, 2023.

New Circular on the Working and Rest Hours of Offshore Petroleum Workers

New Regulation or Official Guidance

Authors: Bernadette Fahy, Partner, and Tran Thi Kim Luyen, Associate – APFL & Partners Legal Vietnam LLC

On November 8, 2023, the Vietnamese Ministry of Industry and Trade issued regulations on the working hours of employees who work regularly at offshore oil and gas projects. The working shifts may not exceed 12 hours per day, and the maximum working session may not exceed 28 days. For employees who work irregularly, work shifts may not exceed 12 hours per day, and the maximum working session may not exceed 45 days.

In terms of rest periods, in addition to the requirement of a minimum rest period of 10 consecutive hours after each shift, the total duration of rest breaks during the shifts, or sessions shall be at least 60 minutes in which there must be a break of at least 30 consecutive minutes.

The Circular took effect on December 25, 2023.





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