



# EMPLOYMENT BULLETIN

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## BELGIUM NEW VOLUNTARY OCCUPATIONAL PENSION OPPORTUNITIES FOR EMPLOYEES

On 31st October 2018, the Belgian government announced the implementation of the new voluntary occupational pension for employees (VOPE). From 2019, employees will be able to set up their own occupational pension when their employer doesn't offer one. An employee who wants to avail of this new rule can set up a VOPE agreement with a pension provider of their choice, and their employer will be requested to deduct the VOPE contributions from the employee's net salary and transfer it to the pension provider. This new rule is expected to go into force from the first quarter of 2019.

## ITALY NEW DURATION OF FIXED-TERM EMPLOYMENT CONTRACTS

On 14th July 2018, the newly appointed Italian government introduced a number of legislative changes, including changes to Fixed-term contracts. The maximum duration of fixed-term contracts, including extensions and renewals, has been lowered to 24 months. (The previous maximum length was 36 months.)

Contracts can be extended freely in the first 12 months, after which contracts may only be extended provided certain criteria are met:

- the employer needs to temporarily replace employees who are absent from work; or
- the employer is fulfilling a temporary and objective need that is unrelated to the ordinary activity of the company; or
- the employer has a need resulting from temporary, significant and unpredictable peaks in ordinary activity of business.

A maximum of four extensions are allowed in the 24-month period. If this limit is exceeded, the contract will be turned into an open-ended contract, beginning with the fifth extension. These new rules apply to all current contracts.

## NETHERLANDS THE BALANCED LABOUR MARKET ACT

The proposed Balanced Labour Market Act (Wet arbeidsmarkt in balans ("WAB")) is currently under consultation. The purpose of the Act is to reform the labour market and to improve the balance between permanent and flexible contracts. This is expected to come into force on 1st January 2020.

## TRANSITION PAYMENT

Currently, employees are only eligible for a transition payment when they are employed for two or more years before employment is terminated. However, the new Act proposes that an employee will be entitled to a transition payment from the start of their employment contract.

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This right will also exist if the employment contract is terminated during the probationary period. Furthermore, each employee will accrue one-third gross monthly salary per year of service over the entire employment contract. In addition, the increased accrual from ten years onwards will be abolished.

## NEW GROUND FOR DISMISSAL

At present, an employee employed on the basis of an indefinite employment agreement can only be terminated if the employer can demonstrate that one of the dismissal grounds (currently, there are eight statutory reasonable grounds.) is entirely applicable. Under the new proposed act, a new ground for dismissal will be added – the combination ground. The new act proposes that dismissal may follow if there is a combination of two or more grounds. Under the new proposed act, the employer will be able to terminate the employment contract if there is a combination of two or more reasonable grounds for dismissal. Furthermore, under the new act, the court will be able to award an employee extra compensation in addition to the transitional compensation. This extra compensation cannot exceed fifty per cent of the transitional compensation.

## UNITED KINGDOM

During the Autumn 2018 Budget, the UK Government announced that changes to the private sector off-payroll working rules also known as IR35 will not come into effect

until April 2020 and would only then apply to large and medium sized businesses. From April 2020, individuals working through their own limited companies will no longer be responsible for determining whether or not IR35 applies. Instead, it will be the engaging company (end client) to decide whether the individual would be considered an employee for tax purposes. If so, the engager will need to deduct PAYE and employee National Insurance contributions (NICs) at source and pay employer NICs. More discussion will take place in 2019 to prepare for April 2020.

## EUROPEAN UNION

On 6th November 2018, The European Court of Justice (ECJ) in Belgium handed down a judgement concerning the circumstances in which the right to compensation in lieu of annual leave on termination of employment may be lost. The ECJ heard two cases that had been before the German courts. These two German cases before the ECJ featured employees who left their employment with accrued untaken holiday leave. The German courts, The Oberverwaltungsgericht Berlin-Brandenburg (Higher Administrative Court of Berlin Brandenburg, Germany) and the Bundesarbeitsgericht (Federal Labour Court, Germany) were uncertain whether EU Law precludes national legislation regarding the loss of paid leave not taken and the right to compensation in lieu of untaken annual leave on termination of employment. The ECJ concluded that a worker cannot automatically lose his acquired right to paid annual leave because he did not apply for leave.

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Global Employment Solutions

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