Dear members,

The COVID-19 coronavirus is having a significant impact on everyone’s lives and economic situations. In many jurisdictions, it has led not only to nationwide work-from-home but also to a reduction in workforce – including both terminations and temporary layoffs. Regulations change rapidly and our clients are in a constant need for advice and support. In order to address these needs, we have put together this special edition of our newsletter for GGI members, setting out how each jurisdiction is dealing with the COVID-19 effects on labour and employment law.

I hope that you will be able to obtain an insight into how each country is currently managing this situation. Please contact the respective authors if you have any specific questions with regards to their particular jurisdiction.

Kind regards,

Jeffrey L. R. Kenens
Global Chairperson of the GGI Labour & Employment Law Practice Group
The GGI Labour & Employment Practice Group has collected news from different jurisdictions – following in alphabetical order by country.

AUSTRALIA

By Nicola Martin and Kate Staude

In response to COVID-19, we are seeing the following main trends in employment law:

- Employers rolling out new and extended technologies to allow employees to work from home.
- Employees agreeing to reduce their hours or take salary reductions.
- Employers directing employees to use their accrued leave entitlements.
- Employers standing down employees under the Fair Work Act on unpaid leave, where there is a stoppage of work for which the employer cannot reasonably be held responsible.
- A wage subsidy scheme, aimed at keeping Employees in employment, called the ‘JobKeepers’ allowance.
- Variations to Modern Awards (industrial instruments) to give Employers greater flexibility on when Employees can work their ‘ordinary hours’ and directing Employees to use up their leave entitlements on little notice.
- Redundancies are already starting to happen.

Nicola Martin

Kate Staude

GGI member firm
McCabe Curwood
Law Firm Services
Sydney, Australia
T: +61 2 9265 3249
W: www.mccabecurwood.com.au
Nicola Martin
E: nicola.martin@mccabecurwood.com.au
Kate Staude
E: kate.staude@mccabecurwood.com.au
BELGIUM
By Xavier Van der Mersch
On 20 March 2020, the decision was taken by the federal government to consider all temporary unemployment resulting from the coronavirus as temporary unemployment due to force majeure. Thus, these employees will be able to avail of increased unemployment benefit.

The Belgian Government has furthermore simplified the procedure to apply for temporary unemployment benefits for force majeure.

The company applying for temporary unemployment must not be shut down completely and can still have certain employees working.

This simplified procedure is applicable to all workers, active in the private, public or non-profit sector, except civil servants and students.

Furthermore, the government has taken special measures to financially support the shops and stores that have been forced to suspend their activities during the confinement, as well as the self-employed that no longer have revenue due to the crisis.

GGI member firm
DALDEWOLF
Brussels, Belgium
T: +32 2 627 10 24
W: daldewolf.com
Xavier Van der Mersch
E: xvdm@daldewolf.com

CANADA
By Marty Rabinovitch
The following measures are available to Canadian employers to reduce personnel costs:

1) Temporary Layoffs – the relevant factors are the definitions of “layoff” in the applicable Canadian jurisdiction and in some provinces, whether the employment contract includes lay-off provisions.

2) Work-Sharing Programmes – employers could consider agreements with employees, in which the employees agree to reduced hours, share the duties of specific positions and can remain employed. If the programme is approved by Service Canada, the employees would be entitled to an Employment Insurance “top-up”.

3) The government has pledged a 75% wage subsidy for certain businesses, for up to 3 months.

4) Businesses are permitted to defer all GST and HST payments until June 2020.

5) Government guaranteed loans will be available to small and medium sized companies.

GGI member firm
Devry Smith Frank LLP
Toronto, Canada
T: +1 416 446 5826
W: devrylaw.ca
Marty Rabinovitch
E: marty.rabinovitch@devrylaw.ca
GERMANY

COVID 19 Shutdown –
Supporting the Economy through Short-time Work in Germany

By Prof Dr Renate Dendorfer-Ditges

As an answer to the economic consequences of the corona crisis, the German legislator has modified the regulations for short-time work benefits (Kurzarbeitergeld) in a speed never seen before.

Short-time work triggers partial or full suspension of the employee’s obligation to work and the employer’s duty to pay remuneration.

Due to the pandemic, all employees, including temporary agency workers, are entitled to compensation for short-time work. The number of employees affected by loss of working hours was reduced from a third to ten percent of the staff per operation.

The employment agency fully reimburses the social security contributions. Further, employees do not have to build minus hours. All further requirements for introducing short-time work are still in place, i.e. the arrangement of short-time requires co-determination, prior notification is mandatory and economically reasonable counter-measures are necessary, e.g. to reduce vacation time and overtime.

GIG member firm
DITGES Partnerschaft mbB
Bonn, Germany
T: +49 228 60460-0
W: ditges.de
Prof Dr Renate Dendorfer-Ditges
E: rdd@ditges.de

Prof Dr Renate Dendorfer-Ditges
The Hungarian Government has issued a Decree which affects the prevailing labour law regulations as follows:

Until 30 days subsequent to the period of the national emergency:

- Working schedules may be altered also in case there are less than 96 hours before the start of the given shift.
- The employer may now unilaterally order home-working and teleworking.
- The employer may take the necessary and justified measures to check the employee’s state of health.
- Provisions of collective agreements that deviate from those described above may not be applied during the time period covered by the Decree.
- The employee and the employer may deviate from the provisions of the Act I of 2012 on the Labour Code by an individual agreement.

Read full article here!
By Paola Parma Sforza

Among the more restrictive measures aimed at containing COVID-19 in Italy is the closing from 26 March of all business activities, either commercial, industrial or services, not deemed to be essential. While the activities allowed to continue are listed in an attachment to the Decree of the President of the Council of Ministers (DPCM), it is left up to the entrepreneur to evaluate which of its operations might be considered functional to an essential one, therefore becoming permitted as well. Each entrepreneur must file a detailed notice with the Prefetto; continuation might be denied if the information provided is not sufficient or if the functionality evaluation thereof is not shared by the authority.

A further limitation is expected. In any case, employers must fulfill specific health measures to protect the employees’ health. Criminal charges apply to failure.
Corona crisis: Dutch temporary emergency bridging measure

By Jeffrey L. R. Kenens and Nick Domburg

The coronavirus COVID-19 and the measures taken to restrict the spreading of the virus in the Netherlands have had a huge impact on the Dutch economy. The Dutch Government is taking measures to help entrepreneurs affected by the crisis. One of the measures is the Temporary Emergency Bridging Measure for Sustained Employment ‘NOW’.

The Dutch Government compensates a maximum of 90% of paid wages for a period of three months, in case of a decrease in turnover of at least 20% as from 1 March 2020 onwards. Upon application, the company commits itself in advance to the obligation not to apply for dismissal on the grounds of business economics for its employees during the period for which the allowance is received.

Read full article here!
United Kingdom’s Response to COVID-19 to Support Employees

By Harmajinder Hayre and Alan Rajah

Just like most countries around the world, the United Kingdom is facing a temporary economic crisis due to the COVID-19 pandemic crisis. The UK Government has introduced measures to assist businesses to deal with the potential mass redundancies that could have a severe impact on the fabric of society.

The proposals are intended to avoid redundancies and protect jobs in the UK. The UK tax department, HMRC, will be setting up a new online portal so that all UK employers, regardless of size, will be eligible for assistance where an employee has been designated as a ‘furloughed worker.’

HMRC will reimburse 80% of furloughed workers wage costs, up to a cap of GBP 2,500 per month. The current plan will be in place for a 3-month period, at which point, it will be reviewed.
New Law Requires Many Employers to Provide Job-Protected Leave and Paid Benefits for Absences Related To COVID-19

By Natalie Sanders and Elizabeth Troutman

On March 18, 2020, President Trump signed the Families First Coronavirus Response Act into law. This law aims to require employers to provide job-protected leave and paid benefits for absences related to COVID-19. It consists of two main provisions:

The Emergency Family and Medical Leave Expansion Act provides job-protected leave for employees who are unable to work or telework because they have to care for a child whose school or daycare has closed due to the COVID-19 emergency.

The Emergency Paid Sick Leave Act states that an employee may take emergency paid sick leave if the employee is unable to work or telework because of certain circumstances caused by COVID-19. Benefits depend upon the circumstances of the employee’s leave.

For more information about the provisions of the new law, please see our full article here and additional guidance here.

Natalie Sanders
Brooks, Pierce, McLendon, Humphrey & Leonard LLP
Greensboro, Raleigh, Wilmington (NC), USA
T: +1 336 373 8850
W: brookspierce.com

Elizabeth Troutman
Brooks, Pierce, McLendon, Humphrey & Leonard LLP
Greensboro, Raleigh, Wilmington (NC), USA
T: +1 336 373 8850
W: brookspierce.com

Read full article here!
Many of the 50 states in the US have taken measures to slow the spread of COVID-19, including shutting down non-essential businesses such as restaurants, bars, clothing stores. This includes closing of dental and optometry offices as well as a ban on elective surgeries. Due to mandatory closures, employers are having to layoff, terminate or furlough staff during the mandated isolation. This has resulted in over 3 million US workers applying for unemployment benefits in the past two weeks alone – the highest in history. The Government has also issued sweeping legislation to assist workers and companies including the CARES Act and Families First Coronavirus Response Act making businesses scramble to obtain federal relief to keep businesses operational.
Contacts

GGI | Geneva Group International AG
Schaffhauserstrasse 550
8052 Zurich, Switzerland
T: +41 44 256 18 18
E: info@ggi.com
W: www.ggi.com
W: www.ggiforum.com

Let us know what you think about FYI – Labour & Employment Law News, we welcome your feedback. If you wish to be removed from the mailing list, please email info@ggi.com.

Responsible Editor in charge of Labour & Employment Law content:
Jeffrey L. R. Kenens
Global Chairperson of the
GGI Labour & Employment Law Practice Group
E: kenens@tk.nl

GGI member firm
TeekensKarstens advocaten notarissen
Law Firm Services
Vondellaan 51
2332 AA Leiden
The Netherlands
T: +31 71 535 80 00
F: +31 71 535 80 01
W: www.tk.nl