

Are you ready for new transparent and predictable working conditions?

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Europe

Employment law

Considering the requirements of the new EU Directive

Why should I read this?

Member States have until 1 August 2022 to implement the new EU Directive on transparent and predictable working conditions. Some Member States now have draft or final legislation in place, others looking likely to miss the deadline.

All employers operating in the EU are likely to be required to make changes to their current arrangements to take account of the requirements of the Directive. Effects may also be seen beyond the EU, where multi-national employers seek to “level-up” their arrangements.

In this briefing, we consider some of the key requirements of the Directive, provide an overview of the current implementation status of some sample jurisdictions and highlight the practical implications for employers.

What do I need to know?

Overall, the Directive boosts workers’ protections by providing them with more clarity regarding their working conditions, and greater protection for those workers engaged in new and casual forms of employment.

Some of the key provisions include:

- an updated and more complete information package. The list of information employers must provide to workers has been extended, now also including all components of remuneration and frequency and method of payment, the procedure to be observed by the employer and the worker when the employment relationship is terminated, the duration and conditions of probation, training entitlements, overtime arrangements and pay, any arrangements for shift changes and the determination of variable working schedules for those on certain casual contracts.
- except in exceptional circumstances, probationary periods should be for no more than six months.
- additional information must be provided to workers who are to be posted abroad, including the currency in which their salary will be paid, the anticipated duration of the posting, and any information on repatriation.
- the use of exclusivity or incompatibility clauses that prevent employees from taking up parallel employment with another employer is generally prohibited.
- most of the information to be provided to workers must be provided between the first and seventh calendar day from the first working day.
- workers with at least six months service have a right to request to transition to a more predictable and secure position, provided an opportunity is available. In the event of any refusal, the employer must provide detailed written reasons, generally within one month of the request, explaining the rationale behind the decision.
- employers of workers with variable work schedules must be informed of certain specified information including the number of guaranteed paid hours, the pay for work performed in addition to those guaranteed hours, the reference hours and days within which the worker may be required to work, the minimum notice before the start of a job, and the deadline for the employer to cancel a job assignment. Further, workers have the right to refuse a work assignment outside previously defined reference hours/days without suffering adverse consequences.

Which countries have implemented the Directive so far?

The table below summarizes the current position across a selection of Member States:

	Current implementation position	Date/expected date of entry into force following local implementation
Belgium	Draft law approved	1 August 2022.
Denmark	Draft legislation introduced	1 January 2023
Estonia	Updated legislation adopted on 20 April 2022. Final legislation in place.	1 August 2022
Finland	Proposed amendments to the law introduced to strengthen the position of employees working under variable hours arrangements	1 August 2022, if approved
France	A draft transposition law was adopted by the Council of Ministers on 6 May 2022	Awaited
<u>Germany</u> – see our briefing	The German Federal Council has approved the draft bill passed by the German Federal Parliament on 23 June 2022	1 August 2022
Italy	The Italian Council of Ministers approved the draft legislative decree transposing the Directive on 22 June 2022	Awaited
Latvia	Amendments to the Labour Law have been adopted	1 August 2022
Netherlands	Final legislation in place	1 August 2022
Poland	Draft law being consulted on by the Council of Ministers	2 August 2022
Portugal	Draft legislation approved by Parliament on 8 July 2022	1 August 2022
Spain	Draft legislation awaited	Awaited
<u>Sweden</u> – see our briefing	Amendments to the Employment Protection Act approved. Final legislation in place.	29 June 2022

What should I do next?

- familiarize yourself with the provisions of the Directive – see the Further reading section below;
- once Member States have published their draft or final implementing legislation, arrange to carry out a gap analysis between existing contractual arrangements and the requirements set out in the legislation, to identify where changes will, at a minimum, need to be made, taking professional advice where needed – see the How we can help section below;
- review existing processes for contract issue and amendments, taking account of the timescales in the EU Directive;
- review existing probationary period arrangements, paying particular attention to any periods of over six months and those contained in fixed-term contracts;
- consider any training needs to ensure that staff understand the new requirements.

What other proposed Directives should I be aware of?

There is currently a myriad of EU Directives being implemented by EU Member States or progressing through the EU legislative process, with each Directive at a different stage of progress.

Employers operating in the EU should familiarize themselves with the provisions and progress of the Directives – see the Further reading section below.

Further reading

For further information on the EU Directive on transparent and predictable working conditions, please see our [more detailed briefing](#).

For further information on other employment-related Directives that are progressing at present, please see our [Keeping up with EU Directives briefing](#)

How we can help

The advice and practical support of our specialist teams can help with reviews of existing contractual documents and arrangements, gap analysis and practical action plans.

Please contact any of our global team should you require advice or assistance.



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