



# Dernières nouvelles

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January 21<sup>st</sup> 2016

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## Editorial: The cost of noise

Most people associate noise problems with living next to motorways or airports. It is a form of pollution, but often not taken as seriously as atmospheric pollution because it disappears immediately when its source is removed.

However, noise is a major workplace issue that can lead to hearing loss or injury, poor concentration, stress and heart conditions. In the United States the latest Bureau of Labour Statistics data shows that hearing loss affected 1.9 in every 10,000 workers in 2014. However, in manufacturing 11.2 workers in every 10,000 were affected and in the 'clean energy' sector — hydro-electric power generation 56.2 workers per 10,000 were affected. The trend is in the right direction with hearing loss in manufacturing down from 16.7 per 10,000 in 2004 — but it remains a major threat for many types of job.

The upper noise limit in workplaces is currently 90db in America and 85db in the UK, but it takes very little exposure to damage hearing. For instance, a typical vacuum cleaner emits 75db and a large truck at 15 metres distance emits 85db. Noise is also a serious

## New Year, New Upgraded Website!

**Happy New Year to all our Members.**

**We are delighted to announce that the first stage of our website upgrade is now live!**

Our [Members' Area](#) has a **new look** and it is now possible to **search** our resources using our **new and highly-effective search function**.

We also have some **new material** in our [HR Knowledgebase](#) including a brand new country section on [New Zealand](#).

Furthermore, we have introduced a facility that allows members to **change their passwords online** at any time, day or night.

We hope these changes will have a positive impact on your experience of using our resources.

Further website upgrades will be taking place over the coming months and we will keep you informed of the latest developments.

source of distraction. In 2014 an international survey by Ipsos found that 85% of people said they could not concentrate at work, whilst a survey earlier that year by Canada Life found that only 6.5% of those surveyed believed an open-plan environment was productive. Moreover, those working in open-plan offices took 70% more sickness absence days than those who worked from home.

Thus, for most employers the threat of noise in the workplace is primarily a concern about its impact on employee performance and their general health. Here the source could be as seemingly harmless as the voices of colleagues, an air conditioning system, office machines or even 'white noise' generators commonly used to mask other noises. In fact, according to an article in Scientific American, on-going white noise can induce the release of excessive levels of cortisol which can impair 'executive' functions used for planning, reasoning and impulse control. But probably the most significant risk of noise to health is to the heart. Many studies have found that excessive noise correlates with raised blood pressure levels and the incidence of heart disease. In fact, one researcher's estimate places the cost saving due to improved cardiovascular health alone at 3.9 billion US dollars per year for every 5db reduction in noise exposure.

## **Bosnia Herzegovina: New labour laws adopted**

A new labour law has just been adopted by the parliament of Bosnia's autonomous Serb Republic. These reforms were necessary in order for the country to secure additional financial support from the International Monetary Fund (IMF). Bosnia's other autonomous region — the Federation of Bosnia and Herzegovina — adopted a number of labour reforms last Summer.

The Serb Republic's new law increases to 180 the number of overtime hours that a worker may perform each year. This maximum limit may be extended up to 230 hours per year by collective agreement. The law also entitles employees to a minimum of four weeks or 20 working days' annual leave each year and precisely defines the concepts of pay, gross wages, base salary and elements for determining salary.

The Federation of Bosnia and Herzegovina's new Labour Act, which came into force on August 20th 2015, extended the maximum duration of fixed-term contracts from two to three years. It also made it an obligation for new employees to be registered for social insurance within 15 days of commencing work, extended annual leave from 18 to 20 days, introduced performance-related pay, and imposed a new three-month maximum on notice periods in the case of termination by employers.

## **Brazil: Ministry issues guidelines on drugs testing for professional drivers**

Brazil's Ministry of Labour has issued an Ordinance setting out new requirements for drugs testing in respect to 'professional drivers'.

Under Law No.13.103/2015, professional drivers will be required to take a drugs test both prior to hiring and on termination as of March 2<sup>nd</sup> 2016. These tests must be able to detect drugs taken at least 90 days before the test date. The Law also states that employers may implement a drug testing policy provided such a policy is available to employees and in line with employment and labour laws.

In its newly-issued Ordinance the Ministry of Labour has added additional requirements to protect employee's privacy. According to the Ordinance these drugs tests must not form part of normal occupational medical screening, they must not be issued as

occupational health certificates and they must not be linked to the employee's fitness.

The Ordinance also provides that the test results must be passed to the employee themselves, who will then have 15 days to pass them to their employer. Employees have the right to contest the results and the results must remain confidential. Like the relevant provisions of the law the Ordinance also comes into force on March 2<sup>nd</sup> 2016.

Because of the right to a retest, vulnerability of the system to the counterfeiting of reports and possibility of long time periods between tests this new procedure is unlikely to have any significant impact on driver safety — unless employers go beyond the statutory requirements and introduce their own policies.

## **China: Fears of discrimination due to policy change**

The Chinese government is concerned that its new two-child policy introduced on January 1<sup>st</sup> may encourage some employers to discriminate against younger women.

Under the former one-child policy employers did not have to be so concerned about family-friendly employment policies or repeated periods of maternity absence. However, the two-child policy coincides with a decline in the extended family amongst many of the newly urbanised population who often live a long way from their family roots. There is, therefore, a greater need for institutionalised childcare and for fathers to take a more active role in bringing up children.

What will be necessary, therefore, is not just tougher and better policed anti-discrimination rules, the introduction of general parental leave rights or spread of kindergartens — but a more fundamental change in the attitudes of employers and fathers together with a

significant rise in earning power to allow Chinese workers to afford childcare fees.

## **European Union: Agreement reached over new data protection regulations**

After three years of negotiations the European Union (EU) Parliament, Council and Commission have finally reached agreement on new European data protection rules. The draft General Data Protection Regulation (GDPR), which will replace the 1995 EU Data Protection Directive, is expected to be formally adopted by Spring 2016. It will then come into force two years later. At this point it will become binding law in all European Union member states without the need for national regulation to implement it. The GDPR will therefore harmonize data protection rules across Europe.

Under the new rules companies will no longer be required to notify the data protection authorities of any data processing activities being undertaken by them. Instead they will be required to maintain a significant amount of internal documentation on their data processing activities and controls. They will also be required to implement data protection 'by design and default' and conduct impact assessments where the use of new technologies may pose a high risk for the privacy of individuals.

Companies will also have to show that consent has been freely and unambiguously given by data subjects. This consent must be explicit when it relates to sensitive data. Data breaches must also be notified to the Data Protection Authority within 72 hours, and affected data subjects must also be notified in a number of specific circumstances.

Furthermore, the new data protection rules will have a wider territorial reach than the current rules. The GDPR will apply not only when personal data is being

processed in the EU, but also when personal data is processed about EU residents — even if the organisation processing the data is not itself in the EU. Moreover, under the GDPR companies could face fines of up to 4% of its total worldwide annual turnover for the most serious breaches of the regulation.

With only two years to comply with the new rules companies should begin reviewing their data protection policies and processes as soon as possible.

## **Poland: Multiple amendments to the Labour Code**

On February 22<sup>nd</sup> 2016, amendments to the rules on fixed-term contracts will finally come into force in Poland. On the same date a number of other amendments to the Labour Code will come into force. These principally concern types of employment contract and garden leave.

As previously reported (in the July 2<sup>nd</sup> 2015 edition of the newswire), the Polish parliament agreed in June 2015 to a number of amendments to the rules on fixed-term contracts. These will limit the length of fixed-term contracts to 33 months and the permitted number of renewals to three. Fixed-term contracts that exceed these limits will be automatically converted to permanent contracts. The minimum legal notice periods that apply to fixed-term contracts will also be brought in line with those that apply to permanent contracts.

In addition, under further amendments to employment law, the different types of employment contract permitted under Polish law will be limited to just three: indefinite contracts, fixed-term contracts and probationary contracts. The law on probationary contracts will also be amended so that more than one probationary contract may be concluded with the same

employee, provided they are for the performance of different work.

Finally the possibility of granting employees garden leave during their notice period will be introduced. Previously garden leave was unregulated by statute in Poland.

## **USA: Philadelphia tightens restrictions on background checks**

The US City of Philadelphia has amended its Fair Criminal Screening Standards Ordinance (2012) to introduce a number of additional requirements and prohibitions. The scope of the law has also been extended. The new provisions will come into force on March 14<sup>th</sup> 2016 and will apply to all employers, whatever their size.

Once the amended law comes into force, employers will not be permitted to operate a general ban on hiring people with a criminal record, nor will they be able to ask for criminal record data on application forms. Moreover, the Philadelphia ban will go well beyond the Pennsylvania state law which already prohibits employers from refusing to hire someone unless they have a conviction which 'relates to the applicant's suitability for employment in the position for which he [or she] has applied' (18 Pa. C.S. § 9125). This is because, in Philadelphia, no background checks will be allowed until after a job offer has been made. Only then will an employer be permitted to make a specific 'suitability' judgment, and this can then only relate to offences committed in the last seven years.

To make things worse, under the revised Ordinance, a number of strict procedures will have to be followed if a decision is made to withdraw a job offer. These include providing the applicant with a copy of the report on which the decision was based and giving them ten

working days to prove that the report is inaccurate or to 'provide an explanation'.

Although the penalty for non-compliance will not exceed 2,000 US dollars per offence, the Ordinance allows for injunctive relief, compensatory damages, punitive damages and legal costs.

## Pay, Tax and Benefit Trends

**BELGIUM:** The total replacement of paper meal vouchers by the electronic lunch pass has finally been achieved in Belgium and the maximum contribution by employers increased to 6.91 euros (7.54 US dollars). This means that when the employee contribution is taken into account, the total value of this tax-free benefit received by 1.3 million Belgian employees will now be 8.00 euros (8.72 US dollars).

**BRAZIL:** The national monthly minimum wage in Brazil increased to 871 Brazilian real (219 US dollars) on January 1st 2016. This is an increase of 83 real (21 US dollars) on the previous minimum wage rate.

**CAPE VERDE:** The West African island state of Cabo Verde (Cape Verde) has just introduced an unemployment benefit allowance. This is being funded by an additional social security contribution of 1.5% from employers and 0.5% from employees. The unemployment benefit itself will be payable at not less than the minimum wage (11,000 escudos/108 US dollars) for an initial 60-day period, but this period may be extended by up to 150 days depending on a worker's age and contributions paid.

**FINLAND:** All political parties in Finland are in agreement with a proposed study to determine the effectiveness and necessary level of a universal basic monthly income. This would be an alternative to a national minimum wage (which does not currently exist in Finland) and would have the advantage of removing

a complex range of welfare payments and state subsidies for unemployment, housing, study and parental leave. It would require the state to provide the universal income — which could initially be set at around 800 euros (872 US dollars) per month — but its tax treatment may allow much of this to be clawed back for those on higher salaries. If the study results in a recommendation for such a system it could be effective as early as 2017.

**FRANCE:** The latest company falling victim to France's narrow conception of where a worker is based, is Cathay Pacific. The company has been fined 500,000 euros (547,000 US dollars) by a court in Bobigny, near Paris, for not treating mobile aircrew operating out of Charles de Gaulle as truly based in France and thus not making 'appropriate' social security payments into Urssaaf.

**PAKISTAN:** Several leading academics and research institutes have combined forces in Pakistan to press for a new living wage. The view of these organisations is that 'the current system of minimum wages is inefficient and does not allow workers to lead a decent life'. They have pointed out that even the current minimum wage — which ranges from 12,000 to 13,000 Pakistani rupee (115 to 124 US dollars) per month — is not implemented across many sectors, such as the garment industry.

**ROMANIA:** On December 30<sup>th</sup> 2015 the Romanian government finally came to an agreement with employers and trade unions to increase the national minimum wage by 19% to 1,250 leu (300.60 US dollars) per month. This new minimum wage became effective on January 1<sup>st</sup> 2016.

**RUSSIAN FEDERATION:** The national monthly minimum wage in Russia increased to 6,204 roubles (87.24 US dollars) on January 1<sup>st</sup> 2016. This amounts to a 4% increase on the current rate of 5,965 roubles (83.88 US dollars). The regional monthly minimum



wage rate for St Petersburg also increased, by 700 roubles, to 11,700 roubles (164.60 US dollars). The monthly minimum wage rate for Moscow increased four times during the course of 2015 and currently stands at 17,300 roubles (243.38 US dollars).

**SLOVENIA:** An amendment to Slovenia's Law on Minimum Wage has changed the definition of the minimum wage effective January 1st 2016. Allowances for night work, work on Sundays and work on holidays may no longer be counted towards the minimum wage. Overtime was already excluded from the pay that could count towards the minimum wage and this remains the case under the amended law.

**USA:** On January 1<sup>st</sup> 2016 minimum wage rates increased in a number of US states. Changes that occurred in Alaska, Arkansas, California, Connecticut, Hawaii, Massachusetts, Michigan, Nebraska, New York, Rhode Island, Vermont and West Virginia were a result of either legislative action or voter referenda over the past two years. However, increases in Colorado and South Dakota were a result of automatic cost of living adjustments linked to inflation. Minimum wage rates are set to increase later in the year in Maryland, the District of Columbia and Minnesota. The US federal minimum wage, currently 7.25 US dollars per hour, has not increased since 2009, but 29 states (as well as the District of Columbia) all have minimum wage rates higher than this federal minimum.

## Other Global HR News in Brief

**CZECH REPUBLIC:** Good Friday will be an official non-working public holiday in the Czech Republic for the first time in 2016. The draft law finally received approval from both houses of parliament in December last year.

**DENMARK:** The number of days off due to public holidays in Denmark fell from 14 in 2014 to 11 in 2015

— and in 2016 it will fall again to just eight. This is because of the coincidence of several public holidays with weekends — including Constitution Day (June 5<sup>th</sup>), Christmas Eve and Christmas Day. Days off on national public holidays are not mandatory in Denmark, but most collective agreements and individual contracts include a right to time off when they fall on normal working days. The National Bank also declares them as Bank Holidays.

**EUROPE:** The European Court of Human Rights (ECHR) in Strasbourg has found that a company was not breaching an employee's privacy rights by accessing Internet correspondence that had taken place during working hours. The employee concerned was using Yahoo Messenger for personal as well as work-related communications via company equipment and had been previously informed about the company's ban on personal communications during working hours. The ECHR Appeal followed a case lost by the employee (Bogdan Barbulescu) before the Romanian Courts.

**HONG KONG:** The Contracts (Rights of Third Parties) Ordinance, which came into force on January 1<sup>st</sup> 2016, automatically includes any relevant third parties in contracts concluded under Hong Kong law. Employers who wish to remove the possibility of claims from parties such as trade unions, insurers or recruitment agencies from agreements with employees will need to state explicitly that no third party will have the right to enforce any rights or benefits under the contract.

**HONG KONG:** A number of recent cases before the Court of Appeal in Hong Kong have established that there is no legal privilege that can be claimed when a qualified accountant gives tax advice to a client. This is the case even if they do this via a qualified lawyer — unless the lawyer themselves adds considerable substance to that advice. It is therefore important that all confidential discussions between such parties are made verbally, face-to-face with no notes taken.

**ITALY:** The local assembly for the Italian region of Lombardy is the latest public authority to ban the wearing of the Islamic veil and burqa in hospitals and local government offices. This is in addition to national legislation in Italy that prohibits helmets, clothing or any other items that make identification difficult in public places without a justifiable motive. Although this does not affect private-sector workplaces it does mark a backlash in public opinion aimed at one religious group which might boil over into social relations at work.

**MALAYSIA:** The Malaysian Anti-Corruption Commission has warned that submitting a medical certificate containing false information in order to obtain paid sick leave is an offence under Section 18 of the Malaysian Anti-Corruption Commission Act. The Deputy Director of the Commission has further pointed out that under section 24 of the Act those making fake claims could be jailed for up to 20 years.

**OMAN:** Currently only 7.8% of jobs in Oman's construction sector are held by local nationals. In an attempt to increase the number of nationals in the sector the government has finally introduced a regulation that was first announced two years ago. This requires companies that do not have shareholders

working as managers to appoint a local Omani to fill that role. These new hires must be registered with the Public Authority for Social Insurance purposes.

**PUERTO RICO:** Under an Amendment to Puerto Rico's Minimum Wage, Vacation and Sick Leave Act, employees in companies with at least 15 workers may be entitled to use up to five of their annual sick leave days for the purposes of caring for a sick dependant. In order to be eligible to use their leave in this way an employee must have already accumulated five days' sick leave and must still be able to achieve an additional five days' sick leave for personal use in the relevant year. In Puerto Rico employees accrue sick leave in the amount of one day per month for every month in which they work at least 115 hours, up to a maximum annual entitlement of 12 days.

**TAIWAN:** Sweeping changes were introduced in Taiwan on January 1st 2016 through amendments to the Labour Standards Act. These include a reduction in normal working time from 84 hours per two weeks to 40 hours per week, the loss of seven national holidays each year, an obligation to pay for overtime hours, adult labour rates for all workers (whatever their age) and an obligation to keep working time records for at least five years.

## Dates for your diary:

**February 22<sup>nd</sup> 2016:** Amendments to the rules on fixed-term contracts and other Labour Code amendments come into force in [Poland](#).

**March 2<sup>nd</sup> 2016:** New rules on drug testing professional drivers come into force in [Brazil](#).

**March 14<sup>th</sup> 2016:** In the [USA](#), amendments to Philadelphia's Fair Criminal Screening Standards Ordinance come into force.

**April 1<sup>st</sup> 2016:** A new law requiring large companies to encourage the employment and promotion of women comes into force in [Japan](#).

## Latest news for business travellers:

Business travellers should be aware that heavy snow forecast for January 22<sup>nd</sup> and 23<sup>rd</sup> on the East Coast of the [USA](#) could cause disruption to road, rail and air travel.

A demonstration has been planned to commence at 2.30pm local time in central Kuala Lumpur, [Malaysia](#), on Saturday, January 23<sup>rd</sup> 2016. Visitors are advised to avoid the demonstration for their safety and security.

There may be significant disruption to travel in London, [UK](#) on January 26<sup>th</sup> and February 15<sup>th</sup> and 17<sup>th</sup> 2016 if planned London underground strikes go ahead. All tube lines will be affected by the strikes and rail services and roads will be busier than usual as a result.

UK nationals are now able to obtain two-year multiple entry visas to [China](#) and Chinese nationals may obtain two-year multiple entry visas to the [UK](#) under a reciprocal visa arrangement between the two countries.

## FedEE news:

**ONE-DAY CONFERENCE ON EMPLOYMENT CONTRACTS AND HR POLICIES:** On January 28<sup>th</sup> 2016 FedEE will be holding a one-day conference in London, UK, during which an impressive group of experts from around the world will be sharing their vast knowledge and expertise in the field of employment contracts and HR policies. This event is nearly fully-booked but one or two places remain. If you are interested in attending and have not yet booked a place please [contact us](#) as soon as possible.

**WEBSITE IMPROVEMENTS:** We are delighted to announce that the first stage of our website upgrade is now live! Our [Members' Area](#) has a **new look** and it is now possible to **search** our resources using our **new and highly-effective search function**. We also have some **new material** in our [HR Knowledgebase](#) including a brand new country section on [New Zealand](#). Furthermore, we have introduced a facility that allows members to **change their passwords online** at any time, day or night. We hope these changes will have a positive impact on your experience of using our resources. Further website upgrades will be taking place over the coming months and we will keep you informed of the latest developments.

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