

Employment Law Tracker

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Australia | Harmers Workplace Lawyers



Latest Case Law: Australia: “Ignominious” treatment of an employee underlines the importance of strong unfair dismissal protections
A recent Fair Work Commission decision has reinforced the importance of human resource managers and employers treating employees fairly and with compassion, prior to terminating employment on the basis of a claimed failure to meet the inherent requirements of their role, due to a medical condition or impairment. [» Read More](#)

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We wrote this especially for you and we hope that it has proved both relevant and informative to your operations. For more information on these articles or any other issues involving labour and employment matters in Australia, please contact Michael Harmer, Partner at Harmers Workplace Lawyers (www.harmers.com.au) at michael.harmer@Harmers.com.au.

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Belgium | Van Olmen & Wynant



Impending Changes of Legislation: Belgium: ‘Flexi-jobs’ will be expanded to the retail industry The Federal Government wants to expand the so-called ‘flexi-jobs’ to the retail industry, department stores, etc. [» Read More](#) [» Read all articles](#)

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Canada | Filion Wakely Thorup Angeletti



Latest Case Law: Canada: Ontario Divisional Court affirms an employer’s right to request an independent medical examination of an employee seeking workplace accommodation The Ontario Divisional Court recently reaffirmed that employers are entitled to request that an employee seeking workplace accommodation under the Ontario *Human Rights Code* undergo an independent medical examination (“IME”) if the medical information required by the employer cannot reasonably be obtained from the employee’s treating practitioner.

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Impending Changes of Legislation: Canada: Significant changes to federal labour legislation brought in by the Budget Implementation Act, 2017, No. 1 The *Budget Implementation Act, 2017, No. 1*, which has recently received Royal Assent, introduced a number of major substantive, administrative and procedural changes to the *Canada Labour Code*. [» Read More](#)

Other Observations: Canada: Ontario’s Workplace Safety and Insurance Board is preparing for a major overhaul of its rate framework, which will change the way it classifies employers and sets premium rates. Ontario’s Workplace Safety and Insurance Board is preparing for a major overhaul of its rate framework, which will change the way it classifies employers and sets premium rates. The new system is intended to address a need for a simpler, fairer solution that shares the costs of the system fairly across all participants, and responds to the changing nature of work in Ontario. [» Read More](#) [» Read all articles](#)

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China | Zhong Lun Law Firm



Latest Case Law: China: The termination agreement held invalid for an exit medical examination was not taken by the employee who was exposed to dust during work The termination agreement between the employer and employee was held invalid, because the employer failed to provide an exit medical examination before execution of the termination agreement, on the employee who was exposed to dust during work. [» Read More](#)

Other Observations: China: The Regulation on the Security of Key Information Infrastructure (Draft for Comment) was released The

National Internet Information Office Released the Regulation on the Security of Key Information Infrastructure (Draft for Comment). [» Read More](#) [» Read all articles](#)

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France | Flichy Grangé Avocats



Latest Case Law: France: A lump sum agreement in days is valid if it provides for an effective monitoring of the employee's workload The French Supreme Court has validated a lump sum agreement given that the employer ensured that the employee's workload was not excessive. [» Read More](#)

Impending Changes of Legislation: France: Under construction – merging of staff delegates, works council, and health and safety

committee into one single structure The *loi d'habilitation* project that is currently under review, would allow the government to implement, via ordinance (decrees), a single structure that would combine the staff delegates, works council, and health and safety committee. The ordinances will define the structure and functions of this structure. [» Read More](#)

Other Observations: France: Companies have until December 31, 2017 to negotiate or implement a disconnection charter. The 8 August 2016 Labour Law sets out that annual collective bargaining on professional equality and quality of life at work, must include discussion on employees disconnecting from digital work tools. Companies with more than 50 employees must add this item to the agenda for their annual bargaining before December 31, 2017, or they face criminal penalties (one year of prison and a 3750 euro fine). [» Read More](#) [» Read all articles](#)

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Germany | Pusch Wahlig Legal



Latest Case Law: Germany: Contractual clauses regulating claims forfeiture (preclusive periods) that do not exempt claims regarding the statutory minimum wage may still be effective with regard to other claims Pursuant to recent case law, preclusive periods in employment contracts must exempt claims regarding the statutory minimum wage in order to be valid. The Regional Labour Court of Nuremberg has ruled that a preclusive period that does not fulfil this requirement, is still effective with regard to other claims, aside from minimum wage issues. However, the ruling is controversial and could still be overturned by the Federal Labour Court. [» Read More](#)

Germany: Employee surveillance through the use of keyloggers without sound footing is inadmissible The Federal Labour Court ruled that employee surveillance through the use of software-based key loggers is inadmissible, unless there exists concrete information justifying suspicion of criminal conduct or other significant neglect of duties. Surveillance without such a basis violates the employee's constitutional right to informational self-determination as well as the Federal Data Protection Act. Any information obtained through such surveillance is inadmissible in labour court. [» Read More](#)

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India | IndusLaw



Impending Changes of Legislation: India: The Labour Code on Wages Bill, 2017 introduced in Parliament The Labour Code on Wages Bill, 2017, which seeks to consolidate and simplify existing statutes relating to wages and benefits, was introduced in the lower House (Lok Sabha) of the Indian Parliament on August 10, 2017. [» Read More](#)

India: Aadhaar (unique ID number) is mandatory for availing benefits under the Employees' Pension Scheme (EPS). Submission of Unique Identification (UID or Aadhaar) number has been made mandatory for eligible employees to avail benefits under the Employees' Pension Scheme, 1995. [» Read More](#) [» Read all articles](#)

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Mexico | De La Vega & Martinez Rojas S.C.



Impending Changes of Legislation: Mexico: The U.S. Government published a “Summary of Objectives for NAFTA Renegotiation” On July 17, 2017, the U.S. Government officially published and served the Canadian and Mexican Governments with a document entitled “*Summary of Objectives for NAFTA Renegotiation*” which introduces a substantial chapter on labor rights. This new labor chapter of NAFTA basically addresses the same concerns as the Trans Pacific Partnership (“TPP”): freedom of association, right to collective bargaining, minimum living wages, fair and transparent labor justice.

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The Netherlands | Palthe Oberman



Latest Case Law: The Netherlands: Manager dismissed due to inadequate performance expected to write her own Personal Improvement Plan The court dissolved the contract of a “Managing Consultant” based on inadequate performance. Given the function level and working experience, the employee could reasonably be expected to write her own Personal Improvement Plan, using the feedback she had received. [» Read More](#) [» Read all articles](#)

We wrote this especially for you and we hope that it has proved both relevant and informative to your operations. For more information on these articles or any other issues involving labour and employment matters in the Netherlands, please contact Christiaan Oberman, Partner at Palthe Oberman (www.paltheoberman.nl) at oberman@paltheoberman.nl.

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New Zealand | SBM Legal



Impending Changes of Legislation: New Zealand: McDonald’s Restaurants New Zealand successfully defended the first “zero hours” test case In 2016, legislative changes were made to prevent “zero hours contracts”, i.e. the practice where employees did not have guaranteed hours of work, but were required to be available to take on any work their employer made available, making it hard to plan their finances and personal lives. In the first test case since the legislative change, McDonald’s has now successfully defended the union’s claim that McDonald’s employment agreements contained an “availability provision”. The union argued that McDonald’s had an availability

provision in its employment agreement and that it did not provide for reasonable compensation for the requirement to work additional hours. The union’s claim was rejected, because employees were not “required” to work additional hours, instead, any request that an employee work additional hours could be turned down. [» Read More](#)

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Norway | Storeng, Beck & Due Lund (SBDL)



Other Observations: Norway: Changes in legislation concerning whistle-blowing In order to strengthen the protection of whistle-blowers in Norway, changes have been made to national legislation. Enterprises with five or more employees must consequently change their internal regulations on whistle-blowing. [» Read More](#)

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Poland | A. Sobczyk & Współpracownicy



Latest Case Law: Poland: Compensation for bullying is also a sanction. For the first time, the Supreme Court explicitly decided that compensation for bullying has a different purpose than civil law compensations. It also has both preventive and educational functions.

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Romania | Magda Volonciu and Associates



Impending Changes of Legislation: Romania: New provisions in the Fiscal Code concerning part-time employees Beginning the 1st of August, new rules on social security contributions for part-time employees will apply. [» Read More](#)

Romania: Changes to Romania's Labour Code New legal provisions were introduced in the Romanian Labour Code in order to limit the occurrence of undeclared employment. Stricter rules on punishing employers that use undeclared employees apply, starting this August.

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Saudi Arabia | Clyde & Co



Impending Changes of Legislation: Saudi Arabia: Ministerial Resolution No. 939 of 20/6/1438H amends the Saudisation ratios that take effect September 2017 The new law amends the Saudisation ratios for economic activities within the Nitaqat Program. The law provides a comprehensive table of the various ratios which apply to the different categories of employers from red to platinum. [» Read More](#)

Other Observations: Saudi Arabia: 'Parallel Nationalization' program is a new initiative by the government Essentially, the program will allow employers to pay fees in order to upgrade their classification

within Nitaqat. [» Read More](#) [» Read all articles](#)

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Spain | Bufete Suárez de Vivero, S.L.



Latest Case Law: Spain: When is a dismissal of an employee during temporary disability declared null and void for discrimination grounds? Court ruling held that the dismissal of an employee in temporary disability is null and void for being a long-term limitation, in line with the Judgment of the European Court of Justice (C-395/15).

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United Arab Emirates | Clyde & Co

Other Observations: UAE: New Rules on Tenancy Agreements Tenancy Agreements now required for Foreign nationals sponsoring dependents in Abu Dhabi. [» Read More](#)

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United Kingdom | Clyde & Co



Latest Case Law: United Kingdom: Holiday pay – Regular voluntary overtime payments must be included in holiday pay A series of UK holiday pay judgments in recent years has sought to clarify what the EU entitlement to four weeks' paid holiday actually means in financial terms. In the latest decision, the employment appeal tribunal has confirmed that regular payments for voluntary overtime must be taken into account in calculating holiday pay. [» Read More](#)
United Kingdom: Tribunal fees – Supreme Court finds employment tribunal fees unlawful Following the introduction of employment tribunal and employment appeal tribunal fees in 2013, there has

been a dramatic and persistent fall in the number of employment claims brought. UNISON, the trade union, has successfully challenged the lawfulness of the fee regime by way of judicial review and tribunal fees have been abolished with immediate effect as a result. [» Read More](#)

Other Observations: United Kingdom: Parental Bereavement Leave announced The Parental Bereavement (Pay and Leave) Bill 2017-19 has been introduced into the House of Commons. Employed parents who have lost a child will for the first time get statutory paid leave to grieve under the proposed new law. [» Read More](#)

United Kingdom: Government has published statement of intent on New Data Protection Bill The government has published a statement of intent on the new Data Protection Bill which will replace the current Data Protection Act and bring the EU's General Data Protection Regulation (GDPR) into UK law. [» Read More](#)

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United States | Jackson Lewis P.C.



Latest Case Law: USA: U.S. Supreme Court Round Up – 2016-2017 The U.S. Supreme Court term that ended June 2017 included a number of decisions important to workplace law. The Court produced nearly unanimous decisions, and maintained predictability and stability, in important areas such as class-action lawsuits, immigration, and ERISA. In these cases, the justices agreed that the letter of the law and the clear Congressional intent when passing the law weighed in favor of maintaining the status quo.

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