

LEGAL UPDATE LABOUR AND EMPLOYMENT LAW

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Employment law implications of the German government's 'Growth Initiative'

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On 17 July 2024 the German government (Bundesregierung) announced the 'Growth Initiative - new economic momentum for Germany', alongside the 2025 Federal Budget. The aim of this Growth Initiative is to increase the momentum of and promote the German economy, and to improve Germany's appeal as a business location and its competitiveness. The German government has agreed a number of measures which will also result in broad changes to employment law when implemented accordingly by the legislature.

Planned changes to employment law

The German government's Growth Initiative includes many measures which should counteract the impending further increase to the shortage of skilled workers in Germany. On the one hand, an action would be taken that would promote overtime from current employees/those still active in the job market. On the other, actions would be taken in order to put people who are not yet or no longer available on the job market in a position to (again) obtain employment.

Promoting overtime

The German government initially plans to make changes to the law to make overtime surcharges no longer subject to tax and social insurance obligations. For employment contracts subject to a works agreement full time work would constitute 34 hours a week, while for employment contracts that have no stipulations on working time from a collective agreement full time work would constitute 40 hours a week. This then means that if an employee works more than the respective full time hours per week any applicable surcharges that would be paid alongside the regular hourly wage for this overtime will not be subject to tax and social insurance obligations. The overtime surcharges will be paid out to the employee without any deductions.

This accompanies the planned changes to the German Working Time Act (Arbeitszeitgesetz, ArbZG), which should enable the parties to a collective agreement or the employer and the works council to temporarily partly deviate from the current regulations of the ArbZG.

In addition, the German government is planning a fiscal incentive for increasing the working

hours of part time employees. In future employers should also have the opportunity to offer tax-exempt bonuses to employees to increase their working hours.

Continued employment after reaching standard retirement age

In order to counteract the demographic changes in Germany, the German government continues to plan to provide incentives and opportunities to get people who have already reached standard retirement age back into employment.

Therefore, for employees who have already reached standard retirement age the ban on previous employment in section 14 (2) of the Act on Part-Time Work and Fixed-Term Employment (Teilzeit- und Befristungsgesetz, TzBfG) would no longer apply under certain conditions. This would make it significantly easier to employ those of retirement age in fixed term contracts. The validity of the fixed term requires no objective reason for this group of persons in accordance with section 14 (1) TzBfG, as long as the employee is entitled to an old age pension and the fixed term without an objective reason does not exceed an overall period of eight years/a total of twelve fixed term contracts. Bringing back employees who have already left the job market will be made significantly easier.

At the same time, the German government plans to provide social insurance law-related incentives for the affected employees in that it will provide the opportunity to "remove" social insurance contributions to be paid to the social insurance agency, including those still to be paid for employees of retirement age, and instead pay these contributions out to employees. Likewise, employees who continue to work after reaching standard retirement age should be given the opportunity to receive a tax-exempt bonus for delaying drawing their statutory pension in the

amount of the pension received up until then if they delay their entitlement to claim the statutory pension.

Promoting further education and the job market hub

The German government also plans to extend further education opportunities for employees and strengthen the transformation process for the job market hub. Therefore, it should be easier for employees to find a suitable follow on job before a possible loss of their current job.

Social insurance law and other changes

In addition, the German government is planning numerous further changes in order to get more people into gainful employment and take down barriers in the job market.

- By increasing the number of childcare places, young parents should find it easier to reconcile family and working life.
- Changes to the amount of citizens' income (Bürgergeld) should result in greater incentives to enter employment.
- As a result of increasing the amounts free of offsetting for supplemental income thresholds for the statutory dependents pension, it should be more beneficial for a person claiming dependents pension to get a job.
- In order to break down barriers for refugees getting a job, a default approval will be introduced where a work permit is deemed to have been granted by the Immigration Office if the applicant (after participation by the Federal Employment Office (Bundesagentur für Arbeit)) has not heard anything to the contrary from the Immigration Office within two weeks of application.

- Finally, the immigration of specialist and other workers from abroad will be made easier. Temporary work would be made possible for immigrants and bureaucratic hurdles removed. Fiscal benefits will be granted to foreign specialist workers entering into employment in Germany.

The demographic change in the job market and the associated lack of employees currently poses many significant challenges for employers. Whether the German government's planned measures are able to effectively counter the issues very much depends on the specific arrangement of the planned legislation. In particular, the planned benefits of overtime or the facilitation of employing those of retirement age may give employers opportunities to rely on staff who have already been training and in the workforce to prevent or reduce the loss of staff.

Note

This overview is solely intended for general information purposes and may not replace legal advice on individual cases. Please contact the respective person in charge with GÖRG or respectively the author Sandra Felicia Schramm on +49 40 500360 755 or by email to sschramm@goerg.de an. For further information about the author visit our website www.goerg.com.

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