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Recent Changes in Labor Law for the New Year

The new year will bring many changes in labor and employment law, and Squire Sanders will continue to keep you informed of all the latest developments. In this Alert, you will find updates on:

- Maternity leave and the protection of parenthood
- Health and safety at work requirements
- Company Social Fund

Maternity Leave

Amount of Holiday Leave

As of 1 January 2009 the amount of maternity leave for female employees giving birth to their first child or a multiple birth was increased. The maternity leave entitlement for female employees is as follows:

- 20 weeks in the case of a single birth;
- 31 weeks in the case of a twin birth;
- 33 weeks in the case of a triple birth;
- 35 weeks in the case of a quadruple birth; and
- 37 weeks in the case of birth of five or more children at one time.

New Institutions

The amendment also introduces extra maternity leave (maximum six or eight weeks) and paternity leave (maximum two weeks), however employees will not be eligible for these types of leave until 1 January 2010 and transition periods will apply during which the amount of leave will be less.

Protection of Parenthood

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There is a major change to the rights of an employee eligible for childcare leave who makes use of the right to reduced working hours. A parent in this position enjoys special protected status, which means that his/her employment relationship cannot be terminated for the maximum period of 12 months of use of the right to reduced working hours, and the employer can only terminate the agreement if it declares bankruptcy or goes into liquidation, or for the reasons given in art. 52 of the Labor Code. Up until now an employee exercising this right did not enjoy this special status under the law. Due to the change, the Act on so-called mass redundancy has also been amended to provide for the special protected status of persons with reduced working hours.

As an addition to art. 185[5] of the Labor Code, which provides for the rules concerning the return of an employee from childcare leave, a new provision is being introduced, effective 18 January 2009, concerning the conditions for allowing an employee to return to work from maternity leave. The employee must be allowed to return to work and take up her former position, and if this is not possible, to a position of equal status to that occupied before the leave was taken or a different position corresponding to the person's professional qualifications for the remuneration that person would have received if she had not gone on leave.

Sickness Benefit

Under the amendment the period for which sickness benefit is due during pregnancy has been extended. As of 1 January 2009 sickness benefit will be due for the duration of incapacity for work during pregnancy for a maximum of 270 days. It should be noted that this provision does not apply to individuals in the social security system who have been granted rehabilitation benefit.

Exemption From the Obligation to Pay Contributions

Employers do not pay contributions to the Labor Fund and Guaranteed Payments Fund for employees returning from maternity leave or childcare leave for a period of 36 months starting from the first month following their return.

Another amendment to the Act on Promotion of Employment and Labor Market Institutions, which provides for more exemptions for employers from the obligation to pay contributions, is waiting to be signed by the President.

Health and Safety at Work Requirements

As of 18 January 2009 employers will have the following obligations:

- to provide the funds needed to ensure the giving of first aid in emergencies, fire fighting equipment

- and evacuation of employees;
- to ensure means of communication with specialist first aid, rescue and fire fighting services; and
- to appoint employees who will give first aid and perform duties related to fire safety and evacuation of employees.

The employer has the obligation to provide employees with the following information:

- dangers to human health and life arising in the workplace with respect to particular positions and tasks performed including procedures to be followed in the event of a breakdown and other situations in which the life and health of employees is at risk;
- protective and preventative measures taken to eliminate or mitigate those dangers; and
- the names of employees appointed to give first aid and perform duties related to fire safety and evacuation of employees.

Measures taken by the employer should be tailored to correspond to the type and scope of business activity performed, the number of employees, and the type and level of danger arising.

It should also be noted that as of December 2008 the scope of responsibilities of occupational medicine services was changed. Initial and periodic examinations and check-ups as well as other health care services are to be performed on the basis of a written agreement concluded by the employer with an entity that provides occupational medicine services.

Company Social Fund

From 1 January 2009 an amendment to the Act on the Social Fund came into effect. The amendment relates to the scope of services that can be funded using the fund. The notion of social activity currently comprises provision by employers of various forms of leisure, cultural and educational events, sport and recreation, care of children in daycare centers, kindergarten and other preschool care, material or financial assistance, and also non-returnable housing benefits according to conditions defined in an agreement. As of 1 January 2009 it will be possible under this Act to use the fund to set up company daycare centers, kindergarten and other forms of preschool care and to take measures with a similar purpose.

Further amendments to the act are waiting to be signed by the President, aimed at further expanding the scope of benefits for which the fund is used.

situations. Counsel should be consulted for legal planning and advice.

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