

As we highlighted in our recent [briefing note](#), from 1 August 2022 German employers must provide additional information to employees about the essential terms and conditions of the employment relationship.

These changes are being made in order to comply with the EU Directive on Transparent and Predictable Working Conditions and will take the form of changes to Germany's existing Verification Act (NachwG). Up until now the NachwG has not played a major role in company practice, as the essential contractual terms to be provided to employees in line with previous regulations were included in practically all standard employment contracts. However, the changes being made to it by the Directive to promote transparency and predictability in the employment relationship are significant and will apply to all employees from the start of next month, regardless of when their employment started.

## Changes to the NachwG

The information that must be provided in writing to employees has been expanded. Among other things, from 1 August employers will legally be obliged to provide employees with the following additional information:

- The exact composition and amount of pay (including overtime pay, bonuses, allowances, premiums and special payments as well as other components of pay);
- The agreed working hours (including agreed rest breaks and rest periods and, in the case of agreed shift work, the shift system, shift pattern and conditions for shift changes);
- The procedure to be followed by the employer and the employee when terminating the employment relationship (including, as a minimum, the requirements of the written form and the notice periods for terminating the employment relationship, as well as the time limit for bringing an action for protection against dismissal and about the collective agreements, works agreements or service agreements applicable to the employment relationship).

For employees who start employment on or after 1 August 2022, the required information has to be provided in full and in writing on the first day of the employment relationship. It is mandatory for the information to be signed by hand (a "wet ink" signature on paper) and posted or physically handed over to the employee in that original printed form. It cannot be signed in electronic form, e.g. using DocuSign. This means that employers will need to conclude employment contracts in writing in the future if they wish to dispense with separate letters containing the additional information.

For employees already in place when the changes come into force, the more detailed terms and conditions of employment need only be provided upon request (which does not have to be in writing), but then within just seven days of that request. We recommend that letters containing the specified material terms and conditions of employment be prepared for all employees in preparation for 1 August 2022, since if large numbers of them all make that request at the same time, compliance with that timescale may become difficult.

## Consequences of Non-Compliance

Under section 4 of the NachwG, a fine of up to EUR 2,000 may be imposed by the relevant state authority per breach in a range of circumstances, including where the essential terms of the contract are simply not provided, not provided in full, not provided in the prescribed manner or within the relevant timeframe. A fine may therefore be imposed even if the separate letter containing the additional information is not handed over in the required written form.



## Next Steps

These new obligations will place a significant administrative burden on all HR departments.

In light of potential fines for non-compliance, we would recommend implementing the changes now – preferably by way of separate notification letters containing the additional required information- rather than waiting until the legislation comes into force on 1 August 2022.

If you have any questions about the changes or how to implement these new obligations please speak to a member of the German Labour & Employment team.



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