



# GMS Flash Alert

## Employment Law

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# Finland - Revised Posted Workers Directive Has Been Implemented

The Finnish Parliament has passed amendments to the Posted Workers Act implementing the revised posted workers directive.<sup>1</sup> The new legislation will enter into force on December 1, 2020 with the exception of a provision concerning posted worker's notice. This provision will enter into force on October 1, 2021. In terms of ongoing postings, a 12-months' transition period will apply.<sup>2</sup>

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### KPMG NOTE

Concerning the ongoing postings, there is a transition period of 12 months before the new legislation is applied. However, the duration of the ongoing posting is calculated as from December 1, 2020, when determining if the Finnish rules must be applied more extensively (if the posting is considered *long-term posting*).

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### WHY THIS MATTERS

The amendments to the Act on Posted Workers clarify how the posted worker's salary is determined. To help ensure compliance, those employers that are posting workers to Finland should review the provisions of the applicable collective bargaining agreement and compare the requirements resulting from those provisions to the existing assignment contracts. Employers must follow/track the duration of the postings as the Finnish regulation is applied more broadly when the posting has lasted more than 12 months. Also the posting company's obligation to submit an advance notification to the Finnish authorities<sup>3</sup> is changed and the notification must include more detailed information than before.

The changes are expected to increase the administrative burdens of the employers.

## More Details

In Finland, the most significant legislative changes amid the revised directive concern: 1) the employer's obligation to compensate for the posted worker's travel, accommodation, and meal expenses during the posting, 2) the way in which payments of an uncertain nature are taken into account in pay comparisons, 3) application of additional employment conditions when the posting has lasted more than 12 months, and 4) the expansion of employers' reporting duties.

## Impacts on Employer Posting Workers to Finland

### Applicable Collective Bargaining Agreement and Remuneration of Posted Worker

The revised directive provides that the terms and conditions of universally applicable collective agreements must be guaranteed in all sectors, not solely in the construction sector.

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### KPMG NOTE

The Finnish legislation was already compatible with this requirement as Finland had previously extended the applicability of collective agreements which was possible under article 3(10) of Directive 96/71/EC.

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Under the original Directive 96/71/EC, the employer was obligated to guarantee the posted worker the host country's minimum rates of pay. Under the revised directive, the posted worker will receive remuneration paid to a local worker following the principle of equal treatment. As there is no statutory minimum wage in Finland, the employer was, already before the amendment, obligated to pay the posted worker remuneration determined on the basis of a universally applicable collective agreement in all sectors. In other words, the *same remuneration principle* of the revised directive was de facto already applied in Finland before the amendment. Therefore, in relation to posted workers' remuneration, the revised directive does not significantly alter the obligations of an employer posting workers to Finland.

### Long-Term Postings

The revised directive introduced a concept of a long-term posting. When a posting has lasted more than 12 months, more extensive application of the host country's employment law is required. In Finland, this will mean that legislation concerning some public holidays and provisions of collective agreements concerning different supplemental payments and reimbursements must be applied.

A posted worker(s) who replaces an earlier posted worker in the same tasks is counted in the time period. The employer must also notify the posted worker if the worker is replacing another posted worker in the same duty and place (latest before the work is started).

### Travel and Accommodation Expenses

Simultaneously with the implementation of the revised directive, Finland is introducing a new protective provision concerning travel and accommodation costs arising from a worker's posting to Finland. If the posted worker is not entitled to protection on the basis of the home country's rules, or the protection would be substantially below what is considered normal and reasonable in Finland, the provisions of the applicable Finnish collective agreement apply.

## Posted Worker Notification

The amendments to the Posted Workers Act expand the posting company's obligation to submit an advance notification of the posting of workers. In the future, the posted workers must be identified (name, personal ID, tax ID) in the notification. This provision will come into effect on October 1, 2021. Currently, only the number of the posted workers is needed.<sup>4</sup>

Additionally, the amendments introduce the possibility to extend the 12-month time limit to a maximum of 18 months. This additional notification must be made by the employer before the 12-month limit is reached, if the sending company wants to extend the time period after which the more extensive set of terms apply.

## FOOTNOTES:

1 The Act amending the Act on Posted workers (447/2016) passed by the Finnish parliament (in Finnish), [click here](#).

2 See the full text of the [Directive 2018/957/EU](#) on posting of workers. For related coverage of the directive, see GMS [Flash Alert 2020-329](#) (27 July 2020) and [Flash Alert 2020-292](#) (23 June 2020).

For prior coverage of posted workers directive developments in Finland, see GMS [Flash Alert 2020-334](#), 29 July 2020.

For coverage of the revised directive, as well as what other countries are doing to transpose the directive into national law, see the following issues of GMS *Flash Alert*: 2020-390 (4 September 2020), [2020-377](#) (28 August 2020), [2020-371](#) (26 August 2020), [2020-356](#) (14 August 2020), [2020-334](#) (29 July 2020), [2020-329](#) (27 July 2020), [2020-327](#) (23 July 2020), [2020-292](#) (23 June 2020), [2018-111](#) (24 August 2018), and [2017-160](#) (6 November 2017).

3 Occupational Safety and Health Administration in Finland. For more information, [click here](#).

4 For more information in English, please see the press release of Ministry of Economic Affairs and Employment concerning the government's proposal to amend the Posted Workers Act, [click here](#).

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## Contact us

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