

Germany Adopts EU's Pension Directive, and May Place Burdens on Employers' Use of Temporary Workers

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On December 18, 2015, the German legislature approved a law that adopted the pension provisions of the EU Mobility Directive. The Directive was passed to enhance worker mobility between EU countries by requiring stronger pension protections, yet some EU member countries have yet to adopt the pension provisions of the Directive. The new German law adopts two major provisions for employers:

1. Pensions will now fully vest in three years instead of five years, and employees can participate in the plan starting at age 21 instead of age 25.
2. The value of a vested pension for former employees (inactive plan members) must now be adjusted to remain commensurate with the vested rights of active members.

These new requirements make it easier for employees to transfer jobs and move between EU countries by protecting pensions after moving to a job in Germany. However, the law now provides fully vested pensions to employees as young as age 24, and the required adjustments to final-pay pension plans may significantly increase an employer's pension expenses. The law will go into effect on January 1, 2018.

Temporary Employees

The German cabinet also is considering a law that would provide further protections to temporary employees. The law would make 18 months the maximum length for temporary employment. If the position continues past 18 months, an employment relationship with the hiring business is presumed. While the law would create a bright line at 18 months, the time period is subject to deviations through a collective agreement. The law also would require equal pay for temporary employees after the ninth month, and would prohibit the employment of temporary employees as strike breakers. If approved this year, the law would go into effect on January 1, 2017.

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