

## client alert

EMPLOYMENT LAW | TURKEY |

MARCH 2016

### AMENDMENTS TO EMPLOYMENT, SOCIAL SECURITY AND INSURANCE REGULATION

Several amendments to Labour Law and State Personnel Law entered into force with the "Code No. 6663 on Amendments of Income Tax Law and Other Codes", published in the Official Gazette dated 10 February 2016 and numbered 29620 ("**Amending Code**").

#### 1. AMENDMENTS TO MATERNITY LEAVE AND INTRODUCTION OF PART-TIME EMPLOYMENT RIGHTS AFTER BIRTH OR ADOPTION

"Code No. 657 on Government Personnel" was amended to match the rights of officers with those of employees, as regulated in Labour Law no. 4857 on the same matter ("Law No. 4857"). Changes include:

- The period between an occurred pre-term birth and the foreseen start date of maternity leave is added to the maternity leave period.
- Right to 8 weeks' paid leave for officers following the adoption of a child younger than 3 years old, jointly with their spouse, solely by them or solely by their non-officer spouse. The date of issue of an adoption decision is not essential for the application start date of this right. This provision also applies if the adopted child was de facto cared for by the family before taking the adoption decision. Adopter officers may also have non-paid leave of 24 months following the end of their paid leave.
- A part-time half-day employment right of 2 months after the birth of the first child, 4 months after the birth of the second child, and 6 months for subsequent births is conferred on women at the end of their maternity leave if requested and if the new-born child is alive at the time, without taking any additional breast-feeding leave. One month extra part-time half-day working right shall be added on to these durations in the case of multiple births, and converted to 12 months should the child be diagnosed with a disability within the 12 months following the birth. Part-time employment right is also applicable for the officers who adopt a child, jointly with their spouse, solely by them or solely by their non-officer spouse after the end of the 8-week paid leave, if requested. Working hours of the officers stated in this paragraph are determined by the relevant public office which they have been working.
- Officers may request a temporary half-day part-time employment, starting at the end of their maternity or paternity leave and lasting until the beginning of the month that follows the start of the child's mandatory elementary schooling, without taking any additional breast-feeding leave. However, required work durations for changing grades or promotions are cut by half per day, and salaries are cut by half accordingly. This right is also applicable to the officers who adopt a child, jointly with their spouse, solely by them or solely by their non-officer spouse, if requested.

Correspondingly, Law No. 4857 and Law No. 4447 on Unemployment Insurance have been amended with the Amending Code, conferring further rights to employees on the matter:

- Part-time employment, from the end of maternity or paternity leave until the beginning of the month following the start of the child's mandatory elementary schooling, no longer constitutes valid grounds for termination of the employment contract, unless the spouse has no job. Should another employee be recruited full-time in replacement, the return of the former as a full-time employee will automatically terminate the contract of the newly recruited replacement employee. This right is also applicable to employees adopting a child younger than 3 years old from de facto caring date of the child.
- A part-time employment right of 60 days after the birth of the first child, 120 days after the birth of the second child, and 180 days for subsequent births is conferred on women at the end of their maternity leave if requested and if the new-born child is alive at the time. 30 days are added on to these periods in the case of multiple births, and converted to 360 days should the child be born with a disability. This right is also applicable both to the father and mother of an adopted child younger than 3 years old. Breast-feeding leave cannot be applied during this period.
- Should the mother die during or after birth, the non-used periods of leave are conferred to the father. The right of 8-week maternity leave shall also apply to employees adopting a child younger than 3 years old, or to employees in the family.
- Employees using their non-paid leave by request after the end of their maternity and paternity leave are granted a part-time working allowance, paid in the second month following the period related to the service certificate and premium. However, the allowance right is subject to three conditions:
  1. To be physically working during at least half of the weekly work hours as specified in Article 63 of Law no. 4857
  2. To apply to the Turkish employment agency with the "part-time labor certificate after birth or adoption" within 30 days starting from the end of the maternity or paternity leave
  3. To have notified at least 600 days of unemployment insurance premium before birth or adoption.

## 2. AMENDMENTS ON SOCIAL INSURANCE AND GENERAL HEALTH INSURANCES

1. Self-employed retired persons (in the scope of article 4/b of Code No. 5510) are no longer considered as insured. They are therefore not obliged to pay social security premiums while working during their retirement, although they may continue receiving their pension payments.
2. Amendments related to persons insured under the general health insurance regime stipulate that persons who are not dependent on their mother or father's general health insurance and:
  - who are less than 20 years old for those who have graduated from high school or from an equivalent educational institution,
  - who are less than 25 years old for those who have graduated from a third level educational institution,are considered as persons insured under the general health insurance regime without income for two years from their graduation date.
3. Amendments related to free healthcare services stipulate that the aforementioned persons are also granted free healthcare services for two years from their graduation date.

### 3. VALIDITY DATES

The amendments indicated under the title 2 paragraph 1 will be valid from the payment period of social security premiums following the publication date of this legislation.

The other amendments will be valid from 9 February 2016.

*In compliance with Turkish bar regulations, opinions relating to Turkish law matters which are included in this client alert have been issued by Özdirekcan Dündar Şenocak Avukatlık Ortaklığı, a Turkish law firm acting as correspondent firm of Gide Loyrette Nouel in Turkey.*

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