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INTERNATIONAL LABOUR LAW NETWORK NEWSLETTER

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Topic of the month

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THE UNILATERAL AMENDMENT OF EMPLOYMENT TERMS & CONDITIONS

We are pleased to present the latest edition of the ILLN Newsletter. This issue focuses on the unilateral amendment of employment terms and conditions, examining how far employers may go in changing pay, working time, duties, place of work and other contractual conditions without the employee's consent, as applied across ILLN member states. While the legal frameworks, the scope of managerial authority and the consequences of overstepping it vary considerably between jurisdictions, a common thread runs through each contribution: the need to strike a proportionate balance between the employer's legitimate business flexibility and the employee's right not to have the terms of the bargain rewritten without agreement.

This cross-jurisdictional overview highlights both shared principles and key differences in how unilateral changes to employment terms are regulated and enforced across Europe.

Featured ILLN Member states

1	Austria
2	Belgium
3	Czech Republic
4	France
5	Germany
6	Italy
7	Luxembourg
8	Netherlands
9	Poland
10	Switzerland
11	United Kingdom

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Member state

AUSTRIA

THE UNILATERAL AMENDMENT OF EMPLOYMENT TERMS & CONDITIONS

Starting point: no general power of unilateral variation

Austrian law grants the employer no general right to unilaterally amend the terms and conditions of employment. The employment contract follows the ordinary rules of contract law: what has been agreed binds both parties and can, in principle, be changed only by mutual consent (Änderungsvereinbarung). Terms and conditions, moreover, do not flow from the contract alone but from a hierarchy of sources – statute, collective bargaining agreement, works agreement and individual contract – in which lower-ranking instruments may, as a rule, deviate from higher-ranking ones only in the employee's favour. Every amendment, whether unilateral or consensual, is therefore capped from below by these mandatory floors. Within those limits, however, Austrian law offers a graduated toolbox of flexibility instruments – and how much unilateral room an employer actually enjoys is largely decided at the drafting stage.

The right of direction and contractual reservation clauses

Within the boundaries of the contract, the employer may unilaterally concretise the employee's duties by virtue of its right of direction (Weisungsrecht): assigning tasks, organising workflows and issuing conduct-related instructions. The breadth of this right mirrors the contract: a broadly framed job description, a wide definition of the place of work or an express mobility clause leaves considerable unilateral leeway, whereas narrowly defined terms turn every deviation into a contractual amendment requiring consent. Employers therefore routinely include reservation clauses (Änderungsvorbehalte) covering, for instance, transfers to other roles or locations. Such clauses are permissible in principle but subject to strict judicial review, particularly in standard form contracts: surprising and disadvantageous clauses do not become part of the contract at all (Section 864a of the Civil Code), and grossly prejudicial ones are void (Section 879 para 3 of the Civil Code). Even a valid reservation must not be exercised arbitrarily – under settled Supreme Court case law, its exercise is measured against fair discretion (billiges Ermessen) and must take the employee's legitimate interests into account.

Voluntary benefits, revocation reservations and established practice

Particular care is required for benefits granted on top of the agreed remuneration, such as bonuses, allowances or benefits in kind. If granted repeatedly and without qualification, they can ripen into binding entitlements by way of established company practice (betriebliche Übung) – and are then immune to unilateral withdrawal. Employers therefore work with voluntariness reservations (Freiwilligkeitsvorbehalte), which prevent an entitlement for the future from arising in the first place, and revocation reservations (Widerrufsvorbehalte), which permit the withdrawal of a benefit already granted. Both instruments are recognised, but their use is again policed: a revocation must not be abusive, and even bonuses labelled "discretionary" are reviewed by the courts against the yardstick of equity.

Transfers and works council co-determination

Transfers (Versetzungen) illustrate the two-layer test characteristic of Austrian law. On the contractual level, the question is whether the new role or location is still covered by the contract or a valid reservation; if not, the transfer requires the employee's consent, failing which it is ineffective – the employee retains the previous remuneration claim and may, in serious cases, even resign for cause. In establishments with a works council, Section 101 of the Labour Constitution Act (ArbVG) adds a second layer: a lasting transfer – one expected to last at least thirteen weeks – must be notified to the works council without delay, and where it entails a deterioration of remuneration or other working conditions, it is legally ineffective without the works council's express consent, even if it is fully covered by the employment contract and even if the employee agrees. If the works council refuses, the labour court may substitute its consent upon the employer's application, provided the transfer is objectively justified on a balancing of interests.

Dismissal for variation (Änderungskündigung) as the ultima ratio

Where the employee does not consent and no reservation covers the intended change, the employer's last-resort instrument is theÄnderungskündigung: a notice of termination coupled with the offer to continue the relationship on amended terms, typically framed so that the termination takes effect only if the employee rejects the new conditions. Its unilateral character is heavily qualified, because the Änderungskündigung is a termination in the full legal sense. The works council must be informed in advance under Section 105 ArbVG, and the employee may challenge the dismissal in court as socially unjustified. In that litigation, the reasonableness of the offered terms becomes the central battleground: the courts examine whether operational requirements justify the change, while an employee who has rejected objectively acceptable terms will find it considerably harder to prevail. For specially protected groups – expectant mothers, parents on parental leave, works council members or registered disabled employees – termination generally requires the prior consent of the court or the competent authority, so a unilateral change of their terms is practically unavailable.

Formalities, recent developments and practical takeaways

Two recent developments underline this consent-based architecture. Since the 2024 implementation of the EU Transparent Working Conditions Directive, the mandatory written statement of terms (Dienstzettel) has been substantially expanded, changes to the essential terms must be documented in writing at the latest when they take effect, and non-compliance now attracts administrative fines. And under the telework rules most recently reshaped in 2025, telework can neither be imposed nor claimed unilaterally: it requires a written agreement which, absent a contractual reservation, can be dissolved unilaterally only for good cause upon one month's notice to the end of a calendar month. If a unilateral change oversteps these limits, the employee may insist on the contractual terms and claim any shortfall in pay – subject to often short contractual or collective forfeiture periods – and a serious interference such as an unauthorised pay cut may even justify a premature resignation with full termination claims. For employers the lessons are clear: flexibility must be built in at the drafting stage, reservations must be transparent and exercised with restraint, the works council must be involved early, and every change should be documented.

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Member state

BELGIUM

THE UNILATERAL AMENDMENT OF EMPLOYMENT TERMS & CONDITIONS

A Binding Agreement

Belgian law starts from a straightforward principle: an employment contract binds both parties, and neither may unilaterally rewrite what has been agreed. There is no general statutory procedure allowing employers to change contractual terms unilaterally for organisational or economic reasons; a proposed change must remain within the employer's managerial authority or be accepted by the employee.

Managerial Authority and Its Limits

The employer's managerial authority (ius variandi) allows it to organise work, allocate tasks and issue instructions, but not to amend the contract itself. A distinction must be drawn between terms expressly agreed, essential elements of the relationship, and purely operational arrangements. An agreed term cannot simply be set aside because it seems secondary, and Article 25 of the Employment Contracts Act prevents flexibility clauses from authorising changes to essential elements.

What Counts as Essential

Whether a term is essential depends on the contract, the parties' intentions and how the relationship has been performed. Remuneration, function, hierarchical position, working time, workplace and other decisive conditions may all qualify. A company car granted for private use, for example, can be an essential benefit, while purely internal procedural changes may remain within managerial authority.

Implicit Dismissal

A breach of contract does not automatically end the relationship. Belgian law reserves "implicit dismissal" for a unilateral and significant change to an essential element. The Court of Cassation (6 September 2021) held that what matters is the extent of the change, not a balancing of the parties' interests — a legitimate business reason alone does not make a significant change permissible. Wrongly invoking implicit dismissal is risky: the Court of Cassation (19 December 2022) confirmed that a party who wrongly accuses the other of an essential change and declares the contract terminated may itself become the author of the termination.

Common Examples

Unilateral salary cuts, withdrawal of earned bonuses, or removal of a car forming part of remuneration are generally prohibited. Changes to duties or reporting lines may be permissible if consistent with the employee's role, but a material reduction in responsibilities may amount to demotion. Relocation and hybrid-working changes depend on the contractual definition of the workplace and any mobility clause; international assignments usually require consent.

Implementing Change Safely

Employers should review the contract, offer letters, policies and collective agreements, then test any proposed change against whether it is contractually agreed, essential, and significant enough to affect performance of the contract. Written employee consent remains the safest route; consultation obligations should be checked, and new conditions should not be imposed before agreement is reached.

Conclusion

For international HR teams, the message is clear: change should rest on contractual analysis and consent, not managerial instruction alone. Early identification of contractual constraints and a properly documented amendment agreement are considerably cheaper than litigation over an unintended implicit dismissal.

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CZECH REPUBLIC

THE UNILATERAL AMENDMENT OF EMPLOYMENT TERMS & CONDITIONS

Contractual terms require agreement

As a general rule, the agreed content of an employment relationship may only be changed by agreement. This applies not only to the type and place of work, but also to additional terms expressly agreed by the parties, such as working hours, shift patterns, remuneration or benefits. Employers should therefore avoid including unnecessary operational detail in employment contracts, as contractual wording may limit future flexibility.

Managerial instructions are not contractual amendments

Employers remain entitled to organise work and issue lawful instructions within the scope of the employment contract. A job description may generally be amended without consent if the new duties remain within the agreed type of work. It cannot, however, be used to assign an entirely different role. The same applies to the place of work. If the contract specifies e.g. Prague, moving an employee between Prague offices will generally not require an amendment. If it specifies a particular address, consent must be required.

Working time and shifts

Employers generally determine working-time schedules and may change shifts, provided employees are informed within the statutory or agreed notice period. Consent is required where specific working days, hours or shift patterns have been contractually agreed. Agreed working hours also cannot be reduced unilaterally from full-time to part-time.

Remuneration

A wage may be agreed in a contract, established by an internal regulation or determined by a unilateral salary assessment. A contractually agreed wage may only be changed by agreement. By contrast, a wage determined by a salary assessment may generally be changed unilaterally, provided the new salary assessment is delivered before the change takes effect. Retroactive reductions are not permitted, and the employer must comply with statutory remuneration rules and equal-treatment obligations.

Internal policies

Employers may generally amend or withdraw internal policies for the future, provided that statutory requirements are respected. This gives employers greater flexibility than where the relevant entitlement is agreed directly in the employment contract.

Transfers to different work

The Labour Code allows an employer to transfer an employee to different work without consent only in limited circumstances expressly set out by law. These exceptions include certain health and public-health reasons, the protection of pregnant employees, specific statutory grounds relating to the employee's ability to perform the agreed work, and emergency situations. They do not provide a general right for employers to unilaterally change an employee's role due to organisational needs. In such cases, the employer must take into account the employee's health, abilities and, where possible, qualifications when assigning alternative work.

What if the employee refuses?
An employee may reject a proposed contractual amendment. The refusal is not misconduct, and the employer remains bound by the existing agreement. Where a genuine organisational change makes the employee's work unnecessary, termination on redundancy grounds may nevertheless be considered.

Conclusion

The key issue is how the relevant employment condition was created. Contractual terms generally require agreement, while matters falling within the employer's authority may be adjusted unilaterally within the limits of the employment contract and applicable law. Before implementing a change, employers should identify the relevant legal instrument, distinguish future entitlements from accrued rights and verify whether the proposed measure remains within the existing contractual framework.

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Member state

FRANCE

THE UNILATERAL AMENDMENT OF EMPLOYMENT TERMS & CONDITIONS

A key distinction under French employment law

French employment law draws a fundamental distinction between:

- the modification of the employment contract; and
- the change in working conditions.

This distinction, which has been largely developed through case law, has major practical consequences for both employers and employees.As a general principle, an employer cannot unilaterally modify an employment contract. Any modification affecting an essential contractual term requires the employee's prior and express consent.
By contrast, changes in working conditions generally fall within the employer's management authority and may therefore be imposed on the employee.

Amendments requiring the employee's prior and express consent

The employee's prior and express consent is required whenever the proposed measure affects an essential element of the employment contract.
This generally includes:

- remuneration;
- working time;
- position, status, level;
- substantial changes in duties and responsibilities;
- and, in certain circumstances, a change of workplace outside the employee's normal geographical area or in the absence of a mobility clause.

The employee is free to accept or refuse such a modification.
A refusal does not constitute misconduct and cannot justify dismissal. If the employee refuses, the employer must abandon the proposed amendment. Should the modification be justified by economic reasons, the employer may consider termination based on the economic reasons that justified the proposed change.

Changes that may be imposed unilaterally

The employer may unilaterally implement measures that constitute a simple change in working conditions, for example:
- changes of the tasks assigned to the employee, provided they remain consistent with the employee's qualification;
- changes in reporting lines;
- change of the place of work within the same geographical area or by application of a mobility clause.

The employee is required to comply with the employer's instructions. A refusal may constitute misconduct and may, depending on the circumstances, justify disciplinary sanction or dismissal.

Practical examples and grey areas

In practice, the boundary between a modification of the contract of employment and a change in working conditions is not always clear.For instance, a change in remuneration will almost always constitute a modification of the contract requiring the employee's prior and express consent. Likewise, reducing an employee's responsibilities or assigning duties inconsistent with the employee's qualification generally requires prior agreement.

By contrast, the implementation of new working tools, a reorganization of reporting structures or a modification of tasks within the employee's qualification will usually but not always fall within the employer's management authority. A change in reporting structure with a reduction of the team members can be considered a modification of the contract of employment.
As a result, disputes frequently arise and courts often have to determine on a case-by-case basis whether a particular measure merely affects the way work is performed or whether it alters an essential aspect of the employment relationship.

The specific case of the APC

French law provides a specific mechanism known as the Collective Performance Agreement (Accord de Performance Collective – APC).Through such an agreement, negotiated with employee representatives, an employer may modify certain aspects of the contract of employment, including working time arrangements, remuneration structures and internal mobility rules, in order to respond to business needs.
Employees remain entitled to refuse the application of the agreement to their employment contract. However, such refusal may lead to dismissal on a specific statutory ground, which constitutes a notable exception to the general principles governing contractual amendments.

Particular rules for employee representatives

French law grants enhanced protection to employee representatives. Unlike ordinary employees, protected employees cannot generally be subjected to either a contractual amendment or a change in working conditions without their prior and express consent.If they refuse the proposed change, the employer must either maintain the existing situation or seek authorisation from the Labour Inspectorate before considering dismissal.
This special protection aims to ensure that employee representatives can perform their representative duties independently and without pressure from the employer.

The distinction between contractual amendments and changes in working conditions remains one of the most important and frequently litigated issues in French employment law.

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GERMANY

THE UNILATERAL AMENDMENT OF EMPLOYMENT TERMS & CONDITIONS

The employer's right to issue instructions (Direktionsrecht), § 106 GewO (German Trade Regulation Act)

Under German employment law, an employer's right to issue instructions is limited to determining the employee's duties, place and time of work, as well as rules relating to conduct in the workplace, provided these matters have not already been conclusively determined by the employment contract, a works agreement, a collective bargaining agreement or statutory law. The right to issue instructions allows employers to specify existing contractual terms, but not to amend them. Typical examples of permissible unilateral adjustments include:

- assigning different duties within the contractually agreed scope of work or
- changing the employee's place of work, provided no specific workplace has been contractually agreed.

Even where a measure falls within the employer's managerial authority, it must be exercised in accordance with the principle of reasonable discretion (billiges Ermessen). This requires a careful balancing of the employer's legitimate business and organisational interests against the employee's interests, taking into account factors such as family and care responsibilities, financial circumstances, as well as the reasonableness and proportionality of the change. Importantly, the employer's right to issue instructions cannot be used to alter the contractual substance of the employment relationship. For example, an employer may not unilaterally assign lower-value duties or reduce an employee's remuneration.

Contractual clauses

The employer's right to issue instructions may be expanded or structured contractually through a transfer clause (Versetzungsklausel). Such a clause allows the employer to assign an employee to a different workplace, working schedule or position. Where a transfer clause is pre-formulated by the employer, it is subject to the strict rules on standard contractual terms (§ 305 et seq. BGB (German Civil Code)). In addition, the employer's exercise of the transfer clause in an individual case again must comply with the principle of reasonable discretion (§ 106 GewO and § 315 BGB). A significant change to an employee's duties may also qualify as a transfer under § 95 para. 3 BetrVG (German Works Constitution Act). In such cases, the employer must consult the works council, where one exists.

Employers may also use revocation clauses (Widerrufsvorbehalte) to reserve the right to withdraw certain benefits. Where such clauses are included in standard terms and conditions, they are subject to § 308 No. 4 BGB and are only valid if the revocation is reasonable for the employee. Case law applies strict standards in this regard. Revocation clauses are ineffective if they affect essential contractual terms or circumvent mandatory dismissal protection or fundamentally alter the balance between the employee's performance and the employer's consideration.

Changes through works agreements or collective bargaining agreements

Works agreements are directly applicable and binding on employees and employers, § 77 para. 4 BetrVG. They may modify employment conditions, but only within certain limits. In the event of a conflict between a works agreement and an individual employment contract, the works agreement generally takes precedence, unless the contractual provision is more favourable to the employee (favourability principle). Therefore, individual contractual rights cannot simply be overridden by a works agreement. However, especially in cases of working conditions with a collective dimension, the terms may be open to negotiation under a works agreement.A collective bargaining agreement may amend the terms of an employment contract where it applies directly and mandatorily to the employment relationship or has been incorporated into the employment contract by reference. However, - here too - under the favourability principle set out in § 4 para. 3 TVG (German Collective Agreements Act), a collective agreement generally does not override individual contractual provisions that are more favourable to the employee.

Termination with an offer of amended conditions

Where a proposed change is no longer covered by the employer's right to issue instructions or a valid contractual reservation, it may be implemented by way of termination with an offer of amended conditions (Änderungskündigung), i.e. a termination of the existing employment relationship combined with an offer to continue employment on amended terms after expiration of the notice period. However, where applicable, the termination must be socially justified under § 1 para. 2 KSchG (German Dismissal Protection Act). Furthermore, the offer of continued employment must clearly define the amended terms so that the employee can decide whether to accept them without further clarification. In addition, the proposed changes must be proportionate and limited to what is reasonably necessary. Where applicable, the works council must be consulted pursuant to §§ 102, 99 BetrVG.

Amendment agreement

Changes to the terms and conditions of employment can always be implemented by mutual agreement between the employer and the employee. An amendment agreement is therefore the most legally secure way to modify any aspect of the employment relationship.

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ITALY

THE UNILATERAL AMENDMENT OF EMPLOYMENT TERMS & CONDITIONS

Under Italian law, the employer has no general power to alter employment terms unilaterally: modifications are in principle subject to mutual agreement. However, there are a few exceptions to this principle.

Article 2103 of the Italian Civil Code sets the main limits on unilateral changes. As to duties, the employer may assign the employee to tasks different from the ones set in the employment contract, provided they fall within the same contractual classification level and legal category. Where organisational changes affect the employee's position, the employer may also assign the employee to lower duties, subject to statutory limits and generally with preservation of classification level and remuneration.

Article 2103 also governs changes to the place of work: a transfer to a different production unit is permitted only within the limits set by law, and in any case requires proven technical, organisational or production-related reasons; discretionary transfers are not allowed.

Within a full-time employment, the employer may adjust the distribution of working hours – changing shifts or schedules, for instance – provided that applicable statutory provisions, collective agreements and the individual contract are observed.

In other cases, the employee's consent is required. Changes to part-time working hours, as well as the switch from part-time to full-time employment, or vice versa, may only be made by agreement; in such cases, refusal does not in itself constitute a valid ground for dismissal. The same applies to remote working arrangements, which must be individually agreed.

Waivers and settlements of rights arising from mandatory provisions set by law or collective bargaining agreements are fully enforceable only if entered into in a "sede protetta" (protected setting), such as before a labour authority, a trade union, a court or a certification commission. Article 2113 primarily concerns waivers and settlements relating to rights already accrued – pay differentials, overtime, indemnities or other employment-related claims – preventing the employee from relinquishing existing entitlements without adequate protection.

Article 2103 of the Italian Civil Code extends the same requirement to agreements involving a significant demotion or a reduction in remuneration, which must equally be concluded in a protected setting.

Some rights, however, lie beyond the reach of any agreement. Employees may not waive rights not yet accrued, and core statutory protections – minimum paid annual leave, rest periods, health and safety standards, anti-discrimination rules – may not be contractually excluded, regardless of whether the employee consents thereto. These limits apply irrespective of the form the modification takes or the setting in which it is agreed.

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Member state

LUXEMBOURG

THE UNILATERAL AMENDMENT OF EMPLOYMENT TERMS & CONDITIONS

Luxembourg labour law provides a structured framework for employers seeking to unilaterally amend employment terms and conditions, especially where the proposed change may be detrimental to the employee. Understanding the legal boundaries and procedural requirements is essential, as failure to comply may render the amendment null and void and expose the employer to damages claims or allegations of abusive termination.

Unilateral amendments: when are they possible?

Employers may generally implement amendments that are neutral or favourable to employees without any particular formality. This includes, for example, salary increases, improved benefits or more favourable working conditions.

A different regime applies where the proposed amendment is both unfavourable to the employee and affects a substantial element of the employment relationship. In that case, Article L.121-7 of the Labour Code imposes a strict legal procedure. Any change made in breach of the statutory formalities and deadlines is in principle null and void.

Substantial and unfavourable changes: legal requirements

Two cumulative conditions trigger the special procedure: first, the change must be unfavourable to the employee; secondly, it must concern an essential element of the employment contract. Essential elements typically include remuneration, qualification, place of work, working time arrangements, or the introduction of restrictive covenants such as non-compete undertakings or other limitations.
In practice, a reduction in base salary or salary supplements, a downgrade in qualification or duties, relocation where no valid mobility clause exists, or the addition of a non-competition clause are likely to be regarded as substantial changes. By contrast, where the employment contract clearly provides from the outset that certain elements, such as working hours or place of work, may vary according to the business needs and are not to be treated as essential, the employee will generally be less able to oppose changes falling within the scope of that flexibility clause.

Procedure for unilateral amendment

If an employer wishes to impose a change to a substantial term of employment to the employee's detriment, it must follow a procedure that broadly mirrors the termination process. The amendment must be notified by registered letter or hand-delivered against acknowledgment of receipt in a copy thereof. In companies employing at least 150 employees, a preliminary interview is also required. If the number of impacted employees reaches the threshold applicable to collective redundancies, the employer must, as a preliminary step, comply with the statutory procedure governing collective redundancies.
As a general rule, the amendment takes effect only after expiry of the applicable notice period, the length of which depends on the employee's length of service, unless serious grounds justify immediate implementation, in which case those grounds must be expressly detailed in the letter notifying the amendment. During the notice period, the employee may consider the proposed change and request the reasons for it within one month of being notified. The employer must reply precisely and in detail within one month of receiving that request.

At the end of the procedure, the employee may accept the change or refuse it. Continued performance of the employment contract will be regarded as acceptance of the change. If, however, the employee refuses it, and resigns as a result of the imposed change, that resignation may be treated as a dismissal. In such circumstances, the employee may bring a claim before the Labour Court to have the termination reclassified as an unfair dismissal and seek compensation accordingly.

If the statutory procedure is not respected, the change may be held null and void, unless the employee is deemed to have tacitly accepted it by failing to challenge it within a reasonable period.

Protected categories

Particular caution is required for protected employees. Staff representatives and other employees benefiting from statutory protection are protected not only against dismissal, but also against unilateral amendments of essential contract terms.

Practical considerations

In practice, amendments to employment contracts are often formalised through an addendum signed by both parties. Employers frequently prefer to negotiate such changes rather than impose them unilaterally, sometimes offering incentives such as a salary increase, bonus or other compensation to obtain the employee's agreement.

Conclusion

Overall, Luxembourg law seeks to balance managerial flexibility with employee protection. Before imposing any unilateral amendment, employers should assess carefully whether the proposed change is both substantial and unfavourable, whether contractual flexibility clauses can validly be relied on, and whether the statutory procedure must be followed. Failure to do so may result in nullity of the amendment, damages claims and broader employment litigation risk. In this context, seeking timely legal advice can be a valuable way for employers to secure the process, limit such risks and identify the most appropriate strategy for implementing sensitive changes to employment terms.

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NETHERLANDS

THE UNILATERAL AMENDMENT OF EMPLOYMENT TERMS & CONDITIONS

Under Dutch law, the general principle is that agreements must be honored. As a result, an employer may not, in principle, unilaterally change an employee's terms and conditions of employment. In most cases, such changes can only be made with the employee's explicit consent.
There are, however, circumstances in which an employer may implement changes without the employee's consent. In the Netherlands, two provisions of the Dutch Civil Code are particularly relevant:

1. A unilateral amendment clause; and
2. The principles of good employership and good employee conduct.

The Unilateral Amendment Clause

Under Dutch law, it is important for the employment agreement to include a unilateral amendment clause. Such a clause allows the employer to unilaterally amend employment terms and conditions if the employer has a compelling business interest in doing so. However, the existence of such a clause does not mean that an employer may make changes whenever it chooses.

Dutch law imposes strict requirements. The clause must be agreed to in writing. In addition, the employer must demonstrate that it has a compelling interest of such significance that, according to the standards of reasonableness and fairness, the employee's interests must yield.
Whether this standard is met, depends on the specific circumstances of the case. Examples include serious financial difficulties, necessary business reorganization, or changes in tax legislation.

The balancing of interests between employer and employee begins with the employer. This means that the employer must first explain and substantiate why a compelling interest exists. In this context, the Dutch works council's statutory right of consent may also play an important role.

At the same time, the employee's interests must also be weighed in accordance with the standards of reasonableness and fairness.For that reason, maintaining a well-documented file supporting the proposed change is essential.

The Principles of Good Employership and Good Employee Conduct

In practice, not every employment agreement contains a unilateral amendment clause.
This does not necessarily mean that an employer is unable to implement a unilateral change. However, the legal basis for doing so is considerably more challenging.Here too, the interests of both employer and employee must be carefully balanced. The employer must first demonstrate that the proposed amendment is reasonable. Only if that threshold is met does the question arise whether, under all the circumstances, the employee can reasonably be expected to accept the proposed unilateral change. The Dutch legal principles of good employership and good employee conduct play a central role in this assessment.

The Dutch Supreme Court has held that an employee may, in certain circumstances, be required to accept a reasonable proposal to amend the terms and conditions of employment. However, where the employment agreement does not contain a unilateral amendment clause, the balancing of interests often favors the employee.Examples include demotion, because of performance issues after a promotion, or change of function after a redundancy.

What Does This Mean?

The general rule is that an employer cannot change employment terms and conditions unilaterally.
For that reason, the inclusion of a unilateral amendment clause in a Dutch employment agreement is of significant importance.
Although a balancing of interests will always be required, the employer is in a stronger legal position when the employment agreement contains a valid unilateral amendment clause.In all cases, a well-supported and thoroughly documented file remains essential.

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Member state

POLAND

THE UNILATERAL AMENDMENT OF EMPLOYMENT TERMS & CONDITIONS

During the course of an employment relationship, it may become necessary to modify the terms and conditions of employment or compensation set forth in the employment contract. Such changes may result in an improvement or deterioration of the employee's situation and may be implemented through an amendment agreement or a notice of amendment. The provisions regarding a notice of amendment to working conditions are set forth in Article 42 of the Labor Code.

Amendment Agreement

The terms of the employment contract may be modified based on mutual consent through an amendment agreement. It must be in writing. A proposal to enter into such an agreement may come from either party to the employment relationship, though neither party is obligated to accept it. However, if the employer and the employee agree to the new terms, the contract is amended to the extent and within the timeframe agreed upon in the amendment agreement.

Proper Application of the Provisions

When an employer proposes a change to the terms and conditions of employment and the employee does not consent to it, the employer may issue a notice of termination modifying the terms and conditions of employment.
Pursuant to Article 42 of the Labor Code, the provisions governing notices of termination modifying the terms and conditions of employment shall be interpreted in accordance with the provisions governing the termination of an employment contract. A notice of amendment aims to change the terms and conditions of employment upon the expiration of the notice period, whereas termination of an employment contract leads to the dissolution of the legal relationship between the parties. Only the employer may amend the terms and conditions of employment.

Written notice of amendment

Pursuant to Article 422 of the Labor Code, a notice of termination of working conditions or pay is deemed to have been given if the employee has been offered new conditions in writing. The employer issues a notice of termination by submitting a unilateral declaration of intent to terminate the existing conditions and presenting a proposal for new conditions in writing.

A justifying reason must be provided

A notice of amendment must state a justifying reason. Justifying reasons may lie with the employer, but also with the employee.

Presumption that the employee has accepted the new terms

An employee may consent to and accept the new terms or refuse to accept the change. Consent is given through an explicit declaration of intent or by implication. If the employee does not submit a statement refusing to accept the proposed terms before the midpoint of the notice period, it is deemed that the employee has consented to those terms. The employer is required to observe the same notice periods as in the case of termination of an employment contract with notice.

What if an employee is protected

It should be noted that in the case of a fixed-term employment contract or an indefinite-term employment contract, the employer must notify the employee's representative trade union of the intention to terminate the contract. Furthermore, the employer may not terminate the employment during the employee's vacation or during any other excused absence. Employees who are no more than 4 years away from reaching retirement age are also covered by this protection. However, the employer may terminate the terms of employment or pay if such termination has become necessary due to the introduction of new remuneration rules applicable to all employees of the employer or to the group to which the employee belongs, as well as in the event of a medical determination of the employee's inability to perform their current job or the loss of qualifications necessary to perform it through no fault of the employee.

Summary

In summary, the parties to an employment relationship may modify the terms and conditions set forth in the employment contract based on a mutual agreement through an amendment agreement. It should be noted that the provisions on the termination of employment contracts apply accordingly, and the employee may also file an appeal with the labor court against the amending notice of termination within 21 days of the date of delivery of the notice.

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THE UNILATERAL AMENDMENT OF EMPLOYMENT TERMS & CONDITIONS

Legal Starting Point: Contractual Stability

Under Swiss employment law, the baseline principle is strict: terms and conditions that form part of an employment contract cannot be unilaterally modified by one party. Employment contracts are governed by the Swiss Code of Obligations and the general principle of pacta sunt servanda. This means that any contractual content – explicit or implied – remains binding unless both parties agree to a modification. However, a key distinction must be made between amendments in favor of the employee and those to the detriment of the employee.

Amendments in Favor of the Employee

Where a modification is objectively beneficial to the employee (e.g., salary increase, improved benefits, additional leave), Swiss doctrine generally assumes acceptance. The rationale is grounded in both practical considerations and good faith: an employee who benefits from a change will usually not be expected to formally reject it.

However, even here, the classification of "favorable" must be objective. A seemingly positive change that carries hidden disadvantages may still require consent subject to stricter requirements.

Amendments to the Detriment of the Employee

Changes that negatively affect the employee's position – such as salary reductions, increased working hours, a demotion, or reduced benefits – require, as a matter of principle, the employee's consent.

Consent does not always need to be express. Under Swiss law, and unless specific form requirements apply, implied consent may be sufficient in certain circumstances. This is particularly relevant where the employer clearly communicates the proposed change and the employee, aware of its implications, does not object within a reasonable period. The legal foundation for this lies in the principle of good faith (Art. 2 Swiss Civil Code), which prevents parties from remaining silent in situations where good faith would require objection.

A particularly relevant doctrine in practice is the repeated acceptance of reduced remuneration. If an employee accepts a lower salary without objection for three consecutive payment cycles, Swiss courts may infer that the employee has implicitly agreed to the modification. This is not a strict statutory rule but a developed principle of evidentiary inference based on consistent conduct and reliance. The employer's reliance on such conduct must, however, be objectively justified.

General Change-of-Terms Clauses

Employers sometimes attempt to include broad contractual clauses allowing unilateral modification of employment terms. Under Swiss law, such clauses are interpreted restrictively.

General amendment reservations are difficult to enforce if they allow material changes without sufficiently specific justification or limits. Courts tend to scrutinize these clauses under principles analogous to consumer protection logic in the Swiss Unfair Competition Act. For example, under consumer protection law, general terms and conditions must not provide for a significant and unjustified imbalance in performance to the detriment of consumers (Art. 8 Unfair Competition Act). Although employees are not consumers, the principle of protecting the weaker party plays an important role in employment law. In addition, employees may not bind themselves excessively (Art. 27 Swiss Civil Code).

The decisive factor remains the principle of good faith: a clause that grants excessive discretion to one party may be considered abusive or ineffective in practice if applied in a way that undermines contractual equilibrium.

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THE UNILATERAL AMENDMENT OF EMPLOYMENT TERMS & CONDITIONS

Employers often need to adapt to changing commercial circumstances. A restructuring, the introduction of new technology, rising costs or a shift in business strategy may make existing employment terms appear outdated or unsustainable. What flexibility do employers have to change employment contract?

Can an employee change their contract unilaterally?

Employees will sometimes seek changes to their working arrangements during employment. Common examples include requests to work remotely, reduce working hours, alter working patterns or relocate. However, employees do not have the right to make unilateral changes to their contracts unless the contract specifically contains a right for them to do so.

Instead, UK legislation provides employees with a number of mechanisms through which contractual changes may be requested, most notably the flexible working regime. However, these mechanisms generally create a right to request a change rather than a right to insist upon one.
As a result, employers are usually entitled to refuse proposed changes provided they follow the relevant statutory framework and can justify their decision.

Can employers change their contract unilaterally?

Whether the proposed change relates to pay, working hours, benefits, hybrid working arrangements or workplace location, the starting point is that contractual variation requires employee agreement.
This can create difficulties where an organisation is responding to changing commercial pressures. A business may consider a proposed change entirely reasonable yet still find itself unable to implement it without employee consent.The law, therefore, places significant weight on the contractual bargain that was originally struck between the parties.

The limits of flexibility clauses

Many contracts contain flexibility clauses which appear to give employers the ability to make changes to certain aspects of the employment relationship. These provisions commonly deal with matters such as duties, reporting structures, workplace location or employee benefits.Employers should be careful not to place too much reliance on these clauses. UK courts and tribunals have traditionally interpreted flexibility provisions narrowly, particularly where a proposed change has a significant impact on employees. Moreover, any contractual discretion must generally be exercised reasonably and consistently with the implied duty of mutual trust and confidence.In practice, even where a flexibility clause exists, employers will often find that consultation remains necessary and desirable before implementing meaningful changes.

Consultation

Most successful contractual changes are achieved through agreement rather than enforcement.
Employees are far more likely to accept revised terms if they understand why the changes are being proposed and how they fit within the wider objectives of the business. That means consultation should rarely be treated as a procedural exercise. Employers should explain the rationale for the proposal, provide sufficient information for employees to engage with it and be prepared to consider alternatives. Employers should also be prepared to offer an incentive to the employee in return for a detrimental change. It does not always have to be financial; employers could consider various ways to encourage employees to agree to the proposed change.Where a recognised trade union is involved, collective bargaining arrangements may also influence the process. Larger employers may have employee representative bodies whose views will carry significant weight.In many cases, employers are able to secure agreement through consultation, particularly where the proposed changes are accompanied by incentives or where employees understand the wider business context.

When consultation fails

Where agreement cannot be reached, contractual disputes often become employment disputes.
An employee who refuses to comply with a lawful contractual amendment may face disciplinary consequences. Equally, an employer that seeks to impose contractual changes without consent may expose itself to claims for breach of contract, unlawful deduction from wages or constructive dismissal.The legal risks increase significantly where the proposed changes affect key terms such as remuneration, working time or place of work.

Fire and rehire

Where an employer wishes to make a contractual change and cannot rely on an existing contractual right or secure employee agreement, it may consider dismissal and re-engagement, commonly known as "fire and rehire". Historically, this has been the means by which employers have sought to achieve changes they could not impose unilaterally. The scope for doing so is becoming increasingly restricted. The statutory Code of Practice on Dismissal and Re-engagement came into force in July 2024, requiring employers to engage in meaningful consultation and genuinely explore alternatives before resorting to dismissal and re-engagement.The Employment Rights Act 2025 goes further by limiting employers' ability to use dismissal and re-engagement as a tool for enforcing unilateral changes. Under the new framework, dismissals connected with the employee's refusal to accept certain changes to pay, pensions, hours of work or holiday entitlement are expected to be automatically unfair, where the employee would otherwise continue in substantially the same role. The employer's only defence in this case would be demonstrating that the company is suffering from severe financial difficulties.Employers should also be aware that tribunals may increase compensation by up to 25% where there has been an unreasonable failure to comply with the Code. The combined effect of the Code and recent legislative reforms is that employers are finding it increasingly difficult to use dismissal and re-engagement as a mechanism for imposing contractual changes where employee consent cannot be obtained.

Conclusion

The UK legal framework seeks to balance commercial flexibility with contractual certainty. Whilst employers may have legitimate business reasons for seeking to amend employment terms, the law continues to place significant weight on employee consent and procedural fairness.
For international employers, the key message is straightforward: changing employment terms in the UK is rarely a simple administrative exercise. Careful planning and meaningful consultations remain critical to reducing risk and successfully implementing change.

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