GroupeY

THE SOCIAL GUIDE FOR EMPLOYERS 2024

RECRUTING
EMPLOYMENT AGREEMENT
WAGES
TOOLS

Your support from A to Y

TRAINING ORGANIZATION, GROUPE Y SUPPORTS YOU IN YOUR SKILLS DEVELOPMENT

- Social and payroll
- Social rights / complience
- Human ressources
- Sustainability and ESG
- Accounting
- GDPR
- Administrative and Financial Department
- Legal

Simplify your Payroll with Groupe Y Solutions

THE INTERNALIZED PAYROLL SOLUTION

- You can easily carry out your payroll independently;
- You benefit from the assistance of a dedicated contact.

THE COLLABORATIVE PAYROLL SOLUTION

- We define together your level of support.

THE IN-OFFICE PAYROLL SOLUTION

- You entrust us with your social payroll management;
- Our consultants take care of everything.

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HIRING EMPLOYEES

EMPLOYMENT CONTRACT

WORKING HOURS

COMPENSATION

PERFORMANCE OF EMPLOYMENT CONTRACT

TERMINATION OF EMPLOYMENT CONTRACT

OTHER FORMS OF WORKING

PRACTICAL TOOLS

Update on 30 april 2024

1 HIRING AN EMPLOYEE

What you need to know :

An employer is required to fulfil a number of formalities when hiring an employee.

If the employer fails to comply with such obligations, it may face criminal sanctions for illegal work.

NOTICE OF EMPLOYMENT (DPAE)

A very important formality for employers is the Notice of Employment (« Déclaration préalable à l'embauche »), which must be sent to the relevant French social security office [URSSAF or MSA], in principle electronically, prior to hiring any employee.

The first time an employee is hired, a preliminary notice must be submitted to the employment inspectorate.

Failure to complete the DPAE is subject to a category 5 fine (c.f. page 85) and a penalty of 300 times the guaranteed minimum (€ 1,245 as at 1/1/2024). A penalty for illegal work may also be applied.

EMPLOYMENT OF FOREIGN EMPLOYEES

When the future employee is a foreign national (from outside the EU, EEA and Switzerland), you must check before hiring the person concerned that he/she has a valid work permit (refer Fact Sheet 2).

Make sure you have all the information required to fulfil the pre-employment formalities when interviewing your future employee.

DRAFTING THE EMPLOYMENT CONTRACT

The employment contract sets out the essential elements of the contractual relationship between the employer and the employee. Its structure is formally regulated in some cases.

Permanent contract, short-term contract, part-time contract, work-training contract, assisted contract... The possibilities are many and varied !

Ask us, before hiring, what is the best contract to use.

Before hiring, consider any possible funding (national, regions, employment agency...).

REGISTERING THE EMPLOYEE WITH PENSION, BENEFIT AND HEALTH PLANS

Check the relevant obligations applicable to the status of the employee (collective agreement, occupational sector agreement, company agreement, etc.).

Sanction Information Advice

Make sure that employees have individually signed up for collective schemes. For health cover schemes, employees may apply for an exemption in certain cases.

EMPLOYMENT MEDICAL

This comprises :

- A preliminary medical for employees not exposed to particular risks. This must be arranged within 3 months from the effective start date ;

or

- A pre-employment fitness medical for employees assigned to a position with particular risks.

It is important to make sure an appointment can be made for the new employee at the occupational health centre within the set time.

Ask us about specific cases and possible exemptions.

STAFF REGISTER

Every employer must keep a staff register in each premises where staff are employed.

It must include the relevant compulsory information including in particular the employee's identification details, job and qualifications, hiring and leaving dates, type of employment contract and so on.

It must be updated whenever a recordable event occurs or is modified.

Failure to keep the staff register is penalised by a category 4 fine (amount page 85).

INFORMATION TO BE SENT TO THE EMPLOYEE

From 1 November 2023, the employer must provide the employee with one or more written documents containing the main information relating to the employment relationship. Fourteen minimum items of information are listed. Some of this information is included in the employment contract, while others may be included in an appendix to the contract, or even in an onboarding booklet.

Certain information must be sent on the 7th calendar day after the hiring day. These are mainly those to be included in the employment contract (identity of the parties, job title, probation period, remuneration, working hours, etc.). It is therefore essential to ensure that the employment contract contains this information and that it is sent to the employee within 7 days after the hiring day and signed by both parties.

Other information must be provided in the month following recruitment, mainly concerning : training, paid leave, procedures for terminating the employment contract, the collective agreement, social protection, etc.

Depending on the information provided, this must be done by express mention on a document sent to the employee or by reference to legislative, regulatory or contractual provisions.

Ask us, some additional information must be provided to employee who is going to work abroad.

An employee who has not received the compulsory information by the deadline must give his employer formal notice to provide it. The employer has 7 calendar days to respond to the request.

DOCUMENTS TO BE GIVEN TO EMPLOYEES

Document setting out the information contained in the notice of employment.

Guide on the collective agreements applicable.

Comprehensive guide on the coverage provided by employee benefit and health cover schemes and the conditions under which they apply.

Booklet on employee savings plans available within the company.

The employee must also be informed about his/her right to a professional appraisal every 2 years (or at the frequency set by collective agreement).

To facilitate the integration of new employees, the company can provide them with a welcome handbook.

2 HIRING A FOREIGN EMPLOYEE

What you need to know :

When hiring a foreign employee, in addition to the formalities applicable to all employees, an employer must check that the person concerned has a valid permit to work in France.

Legitimate foreign employees must benefit from the same rights as French employees.

EEA FOREIGN NATIONAL

A work permit is not required or employment in France for the following countries :

- Germany, Austria, Belgium, Cyprus, Croatia, Denmark, Spain, Finland, Greece, Ireland, Italy, Luxembourg, Malta, Netherlands, Portugal, Sweden, Iceland, Liechtenstein, Norway, Switzerland, Estonia, Hungary, Latvia, Lithuania, Slovakia, Poland, Czech Republic, Slovenia, Romania and Bulgaria.

To hire a national from one of these States, the Employer only has to check the nationality of the candidate by means of an appropriate identity document.

NON-EU FOREIGN NATIONAL

Either the employer is hiring a foreign national who is legally resident in France :

- It must then ensure that this foreign employee has a work permit allowing them to occupy the post offered.

Or the employer is bringing in a foreign employee who does not live in France :

- The employer must then submit an application to bring in a foreign worker to the Direction régionale de l'économie, de l'emploi, du travail et des solidarités (DREETS).

Ask us for the list and details of work permits. Some residence permits automatically grant the right to work.

ENTRY PROCEDURE

When an employer wants to hire a foreign national who is not in France yet, it must complete the relevant procedure with the authorities to obtain a work permit.

The authorities check, in particular, that there are no job seekers who could potentially be hired by the employer.

A fee is payable to the General Directorate of Public Finance (DGFiP) for work permits issued as part of the entry procedure.

Ask us about the different stages of the entry procedure.

Until 31/12/2026, a temporary scheme has been introduced to regularise the situation of illegal foreign workers employed in short-staffed occupations. The application is made at the sole initiative of the foreign worker.

CHECKS TO BE CARRIED OUT BY THE EMPLOYER

It is forbidden to employ, directly or indirectly, or to retain in one's service a foreigner who does not hold a permit authorising him to work or a foreigner who has a permit to work in a professional category, profession or geographical area other than those mentioned on his permit.

The employer must check :

- The nationality of the employee,
- The details of the work permit : activities permitted, authorised geographical areas,
- The fact that there is a work permit (unless the foreigner is included on the list of job seekers kept by the employment agency).

The employer is required to send a copy of the permit produced by the foreign national to the préfet of the department where the employment premises are located, by registered post or email, for authentication, 2 working days before the effective date of employment.

The préfet replies within 2 working days from receipt of the request.

It is also necessary to ensure that work permits are renewed. If they are not renewed, the employer must terminate the contract. Said termination constitutes dismissal.

Any breach of these rules is penalised by 5 year's imprisonment and a fine of € 30,000 and the payment of an administrative fine of at least 5,000 times the guaranteed minimum (so € 20,750 as at 1/01/2024).

EMPLOYMENT OF FOREIGN WORKERS

All foreign employees have the same rights as French workers with respect to the applicable legislation, regulations and collective agreements.

The employer must record the type and number of the work permit on the staff register.

A copy of the permit must be attached to the register.

The employment contract can be translated at the request of the foreign employee. Only the translated document can be cited in dealings with said employee.

Employees who provide evidence of geographical constraints can take 5 consecutive weeks of paid leave.

If an employee is dismissed due to non-compliance with the relevant requirements, he/she will be entitled to a lump sum equivalent to 3 months' salary, or the severance pay according to the applicable legislation or collective agreement if more favourable.

Ask us, the company's skills development plan can include training for foreign employees to enable them to reach a French minimum level.

3 THE COLLECTIVE AGREEMENT

What you need to know :

A collective agreement is an agreement between the staff representative bodies and employers of a specific occupational sector. It details the employment and working conditions of employees, their professional development and their protections.

Employers must establish and examine the collective agreement applicable to their company. The employment contract and payslip must be drafted with reference to the collective agreement.

APPLICATION OF A COLLECTIVE AGREEMENT

Employers are required to apply the collective agreement linked to the company's main business, if this agreement has been extended.

If the collective agreement has not been extended (published in the official legal bulletin), it is only applicable if the employer is affiliated to one of the signatory employer organisations.

The company's NAF code [French business classification system] is used, in principle, to determine the collective agreement applicable.

The applicable collective agreement also depends on the company's location given that its scope can be national, regional or local.

Ask us which collective agreement is applicable if the company has a number of different activities.

If there is a change in activity (merger, assignment, etc.), make sure you check the impact on how the applicable collective agreement is determined.

BENEFICIARIES

The collective agreement applies to all the company's employees.

Application is immediate, automatic and mandatory once the agreement comes into effect.

Some occupations, such as sales reps or journalists, do not benefit from the collective agreement by which their employer is bound, but are covered by specific agreements linked to their occupation.

Ask us about the possibility of voluntary application of a collective agreement.

THE CONTENT

The collective agreement adapts the provisions of the Employment Code to the specific circumstances of the relevant business sector.

It generally includes provisions relating to :

- Classifications, probation periods, notice, severance pay, etc.,
- Working hours : organisation, overtime, fixed working day agreements, part-time work,
- Compensation : minimum salaries, length-of-service bonuses, 13th month, holiday bonus…,
- Leave : paid holidays, sick leave, maternity leave, workplace accident, family events…,
- Retirement and employee benefits...

In principle, the collective agreement includes more favourable measures than the applicable law.

However, it can deviate from certain legal provisions in a way that is unfavourable to employees when said provisions allow this.

Similarly, in certain sectors, a company agreement can deviate from a sector agreement, even if this is less favourable for employees.

Conversely, clauses of the employment contract that are less favourable than the collective agreement are inapplicable.

Ask us, the provisions of the collective agreement must always be compared with those of the Employment Code to check which ones are applicable.

An employee can claim damages for failure to apply a provision of the Collective Agreement.

NOTIFICATION OF EMPLOYEES

In the month following their recruitment, employees are informed of the collective agreements applicable in the company.

The payslip must indicate the collective agreement applied.

The employer must ensure there is an up-to-date copy of the applicable collective agreement available to staff at their workplace.

A notice indicating the applicable collective agreement, where it is kept and how it can be viewed by employees while working for the company must be sent to employees by all available means.

Companies with an intranet system must put an up-to-date copy of the collective agreement on this system.

A copy of the applicable collective agreement must be provided to trade union delegates and the social and economic committee.

If employees are not notified of the applicable collective agreement, the company is liable for a category 4 fine (amount on page 85) and the employer cannot invoke the agreement against the employee.

4 COMPANY AGREEMENT

What you need to know :

By negotiating a company collective agreement, certain rules of employment law can be adapted to the company's needs.

Thus, in a number of cases, the company agreement can deviate from the provisions of the collective agreement even in a sense that is less favourable for employees. A company agreement can even be established for a small company.

PRINCIPLE OF COLLECTIVE AGREEMENT

Any private employer can establish a collective company agreement on its chosen subject.

In principle, the company agreement cannot deviate from public policy provisions. But in limited cases, a company collective agreement can deviate from the law in a way that is unfavourable to the employee.

Furthermore, the company agreement now takes precedence over the sector agreement for many subjects. So it is possible to deviate from the sector agreement to better adapt to the company.

Note that many systems can only be implemented if a collective agreement provides for this (fixed working days contract, annualisation of working hours, night working...).

Ask us how the various provisions in different sectors fit together so you can find out the options for negotiation open to your Company.

NEGOTIATION WITH A UNION REPRESENTATIVE

Company collective agreements must in principle be signed with union representatives.

A union representative can only be appointed in companies with up to 50 employees.

For the agreement to be valid, the signatory unions must account for more than 50 % of the votes cast in favour of the representative trade unions in the first round of the last elections.

Ask us about the options for approving an agreement that does not achieve a majority.

NEGOTIATION WITHOUT A UNION REPRESENTATIVE

- ***Companies with less than 11 employees***

In these companies, a collective agreement can be implemented by referendum.

The employer proposes a draft agreement to the employees and the validity of the agreement is subject to ratification by 2/3 of employees.

The agreement can relate to any subject open to negotiation.

Companies with between 11 and 20 employees without a staff representative and without a union representative can also use a referendum to establish a collective agreement.

Some collective agreements make turnkey contracts available to companies with less than 50 employees.

NEGOTIATION WITHOUT A UNION REPRESENTATIVE

- ***Companies with between 11 and 50 employees***

In these companies, an agreement can be negotiated and signed with :

- An elected representative of the CSE appointed by a representative union,
- A non-appointed elected representative of the CSE,
- An employee appointed by a representative union organisation.

The agreement can relate to all the matters open to negotiation.

To be appointed, an elected representative or a non-elected employee must contact a representative union in the sector or failing that a national and interprofessional union organisation.

If the agreement is negotiated with elected representatives, appointed or not, it must be signed by elected representatives representing the majority of votes cast during the last elections in order to be valid.

If the agreement is signed with an appointed employee, it must be approved by the employees by a majority of votes in order to be applicable.

A vote must be organised within 2 months after signature of the agreement.

Make sure you check that the appointing trade union is representative, and check the content of the mandate which must correspond to the subject of negotiation.

- ***Companies with at least 50 employees***

In this case, the company must negotiate with an elected representative of the CSE.

In the absence of an appointed elected representative, the negotiation is conducted with a non-appointed elected representative. To be valid, the agreement must be signed by elected representatives representing the majority of votes cast during the last elections.

In this context, the negotiation can only relate to measures that are governed by a collective agreement as per applicable legislation.

In the absence of an elected representative or if no elected representative has come forward to negotiate, the employer can negotiate with an appointed employee.

The agreement signed with an appointed elected representative or an appointed employee can cover all matters open to negotiation. It must be approved by the employees by a majority of votes cast. A vote must be organised within 2 months after the signature of the agreement.

When the company has no elected representatives and is negotiating with an appointed employee, it must provide written proof of this.

TERM OF THE AGREEMENT

The company agreement must stipulate whether its term is fixed or non-fixed.

In the absence of a clause relating to term, the agreement is deemed to have been signed for a fixed term of 5 years.

REGISTRATION AND NOTICE

The agreement must be registered in digital form (« TéléAccords » platform) with the relevant authority by the company's legal representative.

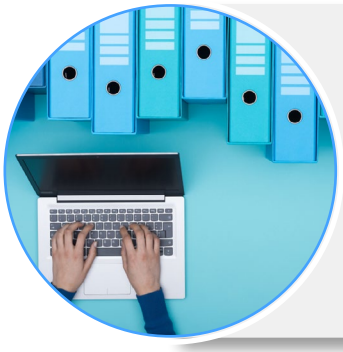
Collective agreements are included in a national data base that can be viewed online (Légifrance website). The signatory parties can, under certain conditions, object to the publication of part of the agreement. Agreements on working hours, time off and leave must be submitted to the sector's permanent negotiation and interpretation committee.

A copy of the agreement is also filed with the registry of the industrial tribunal of the location where it is signed.

In principle, collective agreements apply from the day after they have been registered.

Ask us about the registration procedures and the documents to be enclosed.

5 KEY COMPULSORY REGISTERS AND DOCUMENTS



What you need to know :

Irrespective of how many employees it has and its business, any employer is required to establish and keep a number of compulsory registers and documents.

STAFF REGISTER

This register records, in chronological order of hires, everyone working in the company (employee, temp, loan, intern,...).

It must include the relevant compulsory information including in particular the employee's identification details, job and qualifications, hiring and leaving dates, type of employment contract, type and number of the foreign worker's work permit and so on.

It must be made available to the social and economic committee, the employment inspectorate and social security agents.

A copy of this register must be kept on each site.

Failure to keep the staff register is liable for a category 4 fine (amount page 85), applied as many times as affected employees.

The employer may keep the staff register in computer format if equivalent control safeguards are maintained. Prior consultation of the CSE is required.

OCCUPATIONAL RISK ASSESSMENT DOCUMENT (DUERP)

All managers must assess existing risks in their company : manufacturing procedures, equipment, fitting out of work premises...

The results of this assessment must be formalised in the Occupational risk assessment document.

In companies with less than 50 employees, the occupational risk assessment document must also record all prevention initiatives defined by the company.
(Refer Fact Sheet 32)

REGISTER OF HEALTH AND SAFETY CONTROLS

Statements, results and reports relating to the health and safety inspections and controls incumbent on the employer must be kept for 5 years.

The same applies for observations and notices issued by the employment inspectorate and relating to matters of health and safety, occupational health and risk prevention.

These elements can be collected in a single register.

In any event, the documents on the last two controls or verifications must be kept.

Failure to keep this register is liable for a category 4 fine (amount page 85).

REGISTER OF STAFF REPRESENTATIVES ON THE SOCIAL AND ECONOMIC COMMITTEE

This register includes requests from members of the staff delegation of the social and economic committee and the employer's detailed responses (companies with less than 50 employees).

Failure to keep this register is liable for a fine of € 7,500 (offence of obstruction).

DUPLICATE PAY SLIPS

The employer keeps a duplicate of employees' payslips for 5 years.

If digital payslips are issued, the employer must guarantee to the employee that they will be available for a period of 50 years or until the employee has reached the age of 75.

Failure to keep duplicates of payslips is liable for a category 3 fine (amount page 85).

EMPLOYEE MEDICAL RECORDS

To be kept by the company.

REGISTER OF PUBLIC HEALTH AND ENVIRONMENTAL REPORTS

This register must record reports raised by employees and staff representatives on the company's use of products or manufacturing processes that entail a serious risk to public health or the environment.

Employees may also use the reporting mechanism or public disclosure.

MONITORING OF WORKING HOURS

All managers must be able to provide proof of each employee's working hours.

Make sure you have the necessary systems in place for such monitoring.

WEEKLY TIME-OFF REGISTER

This register must be kept when time-off is not granted collectively all day on Sundays or in one of the forms provided by law.

OTHER COMPULSORY REGISTERS AND DOCUMENTS

Other registers or documents may be compulsory based on your business or location (e.g. register of list of temporary work sites, register of tips for hospitality businesses).

Ask us about what your obligations are in terms of compulsory registers depending on your business.

REGISTERS HELD IN COMPUTERISED FORM

Automated collection, processing and storage of personal data must comply with the « General Data Protection Regulation » (GDPR).

6 KEY COMPULSORY NOTICES

What you need to know :

In any establishment, a certain amount of information must be brought to the attention of employees, some by means of posting, some by any other means (the latter are marked by an *).

DETAILS OF EMPLOYMENT INSPECTORATE

Address, telephone number and name of competent inspectorate.

DETAILS OF OCCUPATIONAL HEALTH AND EMERGENCY SERVICES

Address and telephone number of occupational health and emergency services.

SIGNAGE FOR FIRE PREVENTION AND FIREFIGHTING FACILITIES

INSTRUCTIONS IN EVENT OF ELECTRCAL ACCIDENT

First aid to be given to victims.

Make sure you have a complete, legible notice board accessible to all employees.

BAN ON SMOKING AND VAPING

Reminder of the principle of no smoking and designated areas.

Reminder of the principle of no vaping.

NOTIFICATION OF EMPLOYEES OF HEALTH AND SAFETY RISKS THEY FACE

Means of access to the risk assessment document and prevention measures identified.

In the event of an accident, the employer is liable for failure to inform employees of any health and safety risks they face.

NOTICE OF EXISTENCE OF COLLECTIVE AGREEMENTS*

Title of agreements and collective employment agreements applicable. Place where documents are available to staff.

If such agreements are not posted or notified, they cannot be applied to employees.

WORKING HOURS

Company working hours, work cycle, working time arrangement, reduction of working hours.

WEEKLY TIME OFF*

Days and hours when all or part of the staff are given time off other than on a Sunday.

DAILY TIME OFF

For employees not covered by company working hours.

Make sure information on working hours is kept up to date.

PERIODS OF PAID HOLIDAY AND ORDER IN WHICH HOLIDAYS ARE TAKEN*

PAID HOLIDAYS FUND (IF APPLICABLE) *

Company name and address of fund.

PROFIT-SHARING*

Existence and content of the profit-sharing agreement.

Companies with at least 50 employees.

COMPANY RULES AND REGULATIONS *

Companies with at least 50 employees.

WORKING FROM HOME

ELECTORAL NOTICES*

Organisation of elections, electoral lists, scrutineering procedures, notice of vacancies.

After elections, names of members of the Social and Economic committee (CSE), and of commissions.

Failure to inform employees about elections of employee representative may result in their cancellation.

UNIONS *

Availability of addresses of representative employee unions in the company's sector, on the Employment Ministry's website.

PROVISIONS RELATING TO EQUAL PAY*

Articles L. 3221-1 to L. 3221-7 of the French employment code.

INDEX OF PROFESSIONAL EQUALITY *

Companies with at least 50 employees.

PREVENTION OF DISCRIMINATION*

Number of discrimination hotline.

Articles 225-1 to 225-4 of the French Criminal Code.

PROVISIONS RELATING TO HARRASSMENT*

Sexual harassment : Article 222-33 of the French criminal code, civil and criminal remedies and details of the relevant authorities and services.

Psychological harassment : Article 222-33-2 of the French criminal code.

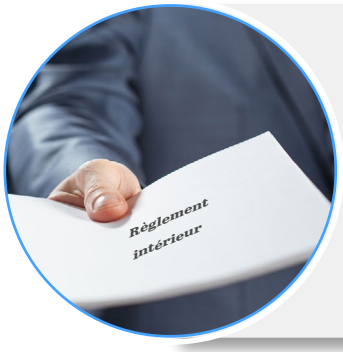
WHISTLEBLOWING COMPLAINT PROCEDURE

Whistleblowing complaint reporting and processing procedure drawn up by the employer.

Companies with at least 50 employees.

Ask us about other notices that might be compulsory for your company, particularly based on your employee numbers or your business.

7 COMPANY RULES AND REGULATIONS



What you need to know :

Company rules and regulations must be drafted by all employers who ordinarily have a staff of at least 50 employees.

But they can also be useful in other companies.

COMPULSORY FOR COMPANIES WITH AT LEAST 50 EMPLOYEES

Optional below the legal threshold of 50 employees (20 employees before January 1, 2020).

Ask us about how to calculate the staff threshold.

DRAFTING OF RULES AND REGULATIONS BY THE EMPLOYER

It is the responsibility of the employer to draft the company's rules and regulations.

The rules and regulations are applicable to the employees and the employer itself.

Ask us about how to draft your rules and regulations and the clauses that may be stipulated by your company (alcohol, drugs, neutrality, ICT ...)

LIMITED CONTENT

Health and safety as well as discipline comprise the main framework of the company rules and regulations.

- ***Health and safety provisions***

The rules and regulations must include all the applicable provisions employees must comply with in order to protect their health and that of other people concerned, due to their actions and omissions at work.

In particular, they provide the framework for blood alcohol level testing in the workplace.

- ***Disciplinary provisions***

The rules and regulations must determine the general and permanent rules relating to discipline. In particular, they determine the nature and scale of sanctions the employer can take.

In those companies where it is compulsory, a sanction can only be applied if it is stipulated by the rules and regulations.

The rules and regulations set out the provisions relating to employees' rights of defence and the provisions relating to psychological and sexual harassment and sexist acts stipulated by the French employment code. It also highlights the existence of the whistleblower protection mechanism.

Make sure your rules and regulations do not include clauses that are non-compliant.

Certain clauses of the rules and regulations cannot be imposed on all employees. They must be justified by the employee's specific tasks and proportional to the aim sought.

CSE CONSULTATION

The company rules and regulations must be submitted to the Social and Economic Committee for its approval.

If the CSE is not consulted, they cannot be applied to the employees.

If this consultation is not carried out, the employer incurs the penalty for the offence of obstruction, namely a fine of € 7,500.

APPROVAL BY EMPLOYMENT INSPECTORATE

The employer must submit the rules and regulations and the written opinion of the social and economic committee to the employment inspectorate.

The employment inspectorate checks the content of the rules and regulations when it receives a copy thereof, but also, subsequently, at any time.

In addition, the employer may ask the employment inspectorate to deliver an explicit decision on the compliance of all or part its rules and regulations, via a « ruling » procedure.

The employment inspectorate can require the withdrawal or modification of any non-compliant provision.

OTHER REGISTRATION AND NOTICE FORMALITIES

The rules and regulations must be filed with the registry of the industrial tribunal.

They are brought to the attention of persons having access to the work premises or the premises where the employee is hired.

If necessary, they may be accompanied with translations into other languages.

They must be regularly updated.

Make sure that the same notice procedure is implemented for any subsequent modification of your company rules and regulations.

EFFECTIVE DATE

The company rules and regulations indicate their effective date which is at least one month after the last notice formality.

Breaches of any of the provisions of the company rules and regulations are liable for a category 4 fine (amount page 85).

IT POLICY

The implementation of an IT policy enables the employer to improve the security of its IT system used by employees. It is also a tool to protect personal data.

An IT policy is drafted and subject to the procedures for the adoption of company rules and regulations in the case where the employer wishes to lay down rules of conduct for the use of computer equipment, which are mandatory and for which non-compliance incurs disciplinary action.

An IT policy is not mandatory but strongly recommended.

The employer can also draw up a safety charter for remote working.

8 SOCIAL AND ECONOMIC COMMITTEE

What you need to know :

The Social and Economic Committee (CSE) is the elected representative body of the company's staff.

All employers with at least 11 employees must have set up a CSE.

SETTING UP THE CSE

The Social and Economic Committee replaces the 3 representative bodies that previously existed : staff delegates (DP) in businesses with at least 11 employees, works council (CE), and health, safety & working conditions committee (CHSCT) in businesses with at least 50 employees.

The CSE must be set up when the company has a headcount of at least 11 employees for 12 consecutive months.

The headcount is calculated based on the rules of employment law.

In companies with at least 50 employees having at least 2 separate sites, a central CSE and site CSEs must be set up.

ORGANISATION OF ELECTIONS

The employer is responsible for organising elections and **re-elections** of staff representatives. When the body has not been set up, an employee or a union organisation can request the organisation of elections at any time.

The term of office of members of the CSE is 4 years. A sector collective agreement or a company agreement can set this term between 2 and 4 years.

When, after 2 rounds of elections, the CSE has not been able to be set up due to lack of a candidate, a report must be prepared by the employer.

DUTIES OF THE CSE IN COMPANIES WITH 11 TO 49 EMPLOYEES

The CSE staff delegation performs some of the duties that were incumbent on staff representatives. It presents individual or joint claims to the employer concerning salaries and the application of the French employment code, agreements and collective agreements. It helps to promote health, safety and working conditions. It carries out investigations into workplace accidents or occupational illnesses. It refers all complaints or observations by staff to the employment inspectorate. It has the right to report any infringement of personal rights.

DUTIES OF THE CSE IN COMPANIES WITH AT LEAST 50 EMPLOYEES

The members of the CSE perform the duties that were incumbent on the staff representatives, works council and health & safety committee.

Financial duties : the role of CSE is to represent the collective voice of the employees so their interests can be taken into account in decisions relating to the management and economic and financial development of the company, organisation, professional development and production techniques

particulary with regard to the environmental consequences of theses decisions.

Duties on health, safety and working conditions : the CSE analyses occupational risks, helps to facilitate access by women to all jobs, proposes anti-harassment measures and carries out health and safety inspections.

Social and cultural duties : services developed in favour of employees and their families.

The threshold of 50 employees is deemed to have been reached when the company reaches or exceeds it for 12 consecutive months.

MEANS OF ACTION OF THE CSE

The number of elected representatives on the CSE varies according to the number of staff (1 permanent member and 1 substitute member in companies with 11 to 24 employees). Permanent members are given time credits to perform their duties (10 hours per month by permanent member in companies with less than 50 employees), a room and a notice board and health, safety and working conditions training of at least 5 days.

In companies with at least 50 employees, the CSE has a civil capacity to act.

It has an operating budget of 0.2 % of the payroll (0.22 % in companies with at least 2,000 employees) and a budget for social and cultural activities determined by collective agreement.

Its members receive financial training.

In these companies, the employer must set up an economic, social and environnemental data base (BDESE) including all the information required for recurrent consultation and notification of the CSE. For the most part, the operating conditions of the CSE are determined by negotiation.

Ask us about the conditions under which part of the annual surplus of the CSE's operating budget can be transferred to funding social and cultural activities and vice versa.

PROTECTION OF STAFF REPRESENTATIVES

For the duration of their term of office and 6 months after, employee members of the CSE cannot be dismissed or laid off or be the subject of a termination by agreement, unless authorised by the employment inspectorate.

This also refers to the candidates for elections for a period of 6 months.

Dismissal without authorisation is considered invalid. The employee is entitled to reintegration and compensation.

OFFENCE OF OBSTRUCTION

Obstructing the set up or operation of a staff representative body is an offence.

In addition, failure to set up the CSE can have important consequences in situations where consultation of such bodies is required by law (physical incapacity, redundancy, short-time working...).

Failure to set up the CSE is penalised by 1 year's imprisonment and a fine of € 7,500. Obstructing the operation of the CSE is penalised by a fine of € 7,500.

UNION REPRESENTATIVE

A union representation may be appointed in a company or business with up to 50 employees.

In companies with less than 50 employees, representative unions can appoint a member of the staff delegation to the CSE as a union representative. He/she performs the role of representing the union to which he/she belongs and negotiating agreements or collective agreements.

9 FIXED-TERM CONTRACT

What you need to know :

The fixed-term contract is an exceptional form of employment contract subject to strict regulations. If a fixed-term contract does not comply with the rules laid down by the applicable legislation, it may be reclassified as a permanent contract.

Note that an extended collective agreement may relax certain rules governing fixed term contracts.

MAIN CASES WHERE A FIXED-TERM CONTRACT IS USED

A fixed-term contract can only be signed where stipulated by applicable legislation and for the performance of a precise and temporary task :

- Replacement of an employee,
- Temporary increase in company's business,
- Seasonal jobs or jobs for which a fixed-term contract is usually used,
- Replacement of company manager,
- Recruitment under the applicable employment policy (professional training andapprenticeship contracts, seniors contract and so on),
- Project-based fixed-term contract for engineers and executives.

Ask us, to make sure you avoid signing a fixed-term contract where not permitted by law. Under no circumstances may a fixed-term contract (CDD) be used to fill a job related to the normal and permanent activity of the company.

FORM OF FIXED-TERM CONTRACT

The fixed-term contract must be in writing, otherwise it is deemed to be a permanent contract. Failure to sign by one of the parties is classed as the absence of a written document.

It must be given to the employee within 2 days of being hired.

It must include certain details including : reason for contract, contract end date, post held, length of probation period...

The fixed-term contract must include detailed reasons for its use, otherwise it might be re-classed as a permanent contract. The employer is liable in this case for a fine of € 3,750.

PROBATION PERIOD

The statutory maximum period is 1 day a week up to 2 weeks maximum for a fixed-term contract of 6 months or less.

1 month maximum for a fixed-term contract of more than 6 months.

If the employer or employee terminates the contract during the probation period, notice must be given. (refer to Fact Sheet 13).

When the contract does not have a precise term, the probation period is calculated on the basis of the minimum term of the contract.

TERM OF FIXED-TERM CONTRACT

The fixed-term contract can be signed :

- From date to date : in this case, it has a maximum term of 18 months, including renewals, only 2 renewals being allowed,

- With no precise term: in this case, the term of the contract will be linked to the achievement of the object of the contract. This type of fixed-term contract must stipulate a minimum term.

Ask us for details about the maximum contract terms and conditions of renewal which vary depending on the cases where fixed-term contracts are used. Your collective agreement can also include specific provisions.

EMPLOYEE RIGHTS UNDER A FIXED-TERM CONTRACT

During his/her contract, an employee under a fixed-term contract has the same rights as the other company employees in terms of working hours, salary, sick pay, election of staff representatives, benefits and so on.

An employee under a fixed-term contract, with at least 6 months' service, may ask the employer to keep him/her informed about permanent job opportunities.

TERMINATION OF FIXED-TERM CONTRACT

The fixed-term contract cannot be terminated early except in the event of agreement between the parties, serious misconduct or force majeure or if the employee can provide proof that he/she has been hired under a permanent contract.

Aside from these cases, early termination of the contract results in the following :

- The employer is required to pay damages to the employee which are at least equal to the sums the employee would have received until the end of the contract,
- The employee may be ordered to pay damages to the employer for the loss sustained by the company.

Before signing a fixed-term contract, assess your staffing needs and whether it is beneficial for you to choose this type of contract.

Since 1 September 2022, bonus-malus mechanism is implemented on the employer unemployment contribution aimed at encouraging long-term employment and penalizing a succession of short-term contracts in some business sectors.

SUCCESSIVE FIXED-TERM CONTRACTS

A succession of fixed-term contracts can only be entered into for the same job if there is a period of time between the 2 contracts, as indicated below (with some exceptions) :

- A third of the contract term, including renewals, for contracts with a term of more than 14 days,
- Half of the contract term, including renewals, for contracts with a term of less than 14 days.

Special arrangements may be stipulated by an extended collective agreement.

END OF FIXED-TERM CONTRACT

The fixed-term contract ends automatically at the end of the term mentioned.

If the contract continues beyond the term, it becomes permanent (CDI).

At the end of the contract, the employee receives :

- A short-term contract allowance of 10 % of the total gross salary paid during the fixed-term contract (aside from exceptional cases),
- A sum in lieu of paid holidays, irrespective of the length of the contract.

Ask us, the employer must put in place a specific procedure when he wants the employment relationship on a fixed-term contract (CDD) to continue on a permanent contract (CDI) under the same conditions of employment. In fact, if a jobseeker has twice in the previous 12 months refused an offer of a permanent contract under these conditions, he or she will not be entitled to unemployment benefit.

10 PART-TIME CONTRACT

What you need to know :

A part-time employee is an employee whose working hours are less than those stipulated by the law or collective agreement applicable to the company.

Minimum working hours must however be respected. The part-time employment contract must include specific information.

The part-time employee has the same rights as full-time employees.

IMPLEMENTATION

A part-time employee is an employee whose working hours are less than the statutory working hours (35 hours per week) or the hours determined by collective agreement if less.

The minimum part-time working hours are set by an extended sector agreement, otherwise they are 24 hours per week. The employee can ask to work less than the minimum working hours due to personal constraints or in order to combine several activities. The following exceptions apply to minimum hours : students under the age of 26, private employer, fixed-term contract of 1 week maximum...

Part-time work can be arranged by the employer by company agreement or otherwise by an extended sector agreement.

Failing a collective agreement, it can be implemented by the employer after consulting the CSE. In the absence of a CSE, it can be arranged by the employer or at the request of employees after informing the employment inspectorate.

Part-time work can be organised over the week, month or year, as part of the reduction of working hours for personal life demands or adjusted part-time hours.

Employees under a part-time contract with less hours than the minimum are given priority for a job offering the minimum hours. The employer must give them the list of available posts.

PART-TIME EMPLOYMENT CONTRACT

A part-time employment contract can be signed for a non-fixed or fixed term.

It must in all cases be in writing and include certain compulsory details including: the set weekly or monthly working hours, how they are arranged over the days of the week or weeks of the month, the cases where the arrangement of working hours can be adjusted, conditions under the employee is informed of his/her working hours for each day worked, the possibility of working overtime...

Working hours can only be modified with the employee's agreement.

If there is no written documentation or note of working hours, the contract is deemed to have been signed on a full-time basis, plus the employer is liable for a category 5 fine (amount page 85).

ORGANISATION OF WORKING HOURS

Part-time employees have individualised working hours ; they must be informed in writing of their hours of work for each day worked.

Employees must be informed of any changes to their weekly or monthly working hours within a 7 days notice period, unless a different notice period is stipulated by company or sector agreement.

Working hours cannot include more than one break during the same day or a break of more than 2 hours, subject to other provisions stipulated by the company agreement or otherwise by an extended sector agreement.

When employees work for several employers, total working hours must not exceed the maximum authorised hours.

Ask us, your collective agreement may provide for the possibility of signing « additional hours » addenda to temporarily increase working hours of part-time employees.

ADDITIONAL HOURS

A part-time employee can work additional hours up to 10 % of the weekly or monthly working hours stipulated in the employment contract. A company agreement or otherwise an extended sector agreement can adjust this limit to 1/3 of the working hours stipulated in the contract but cannot have the effect of increasing working hours to the statutory or collective agreement working hours.

The extended sector agreement can stipulate the extra rate of pay for each additional hour worked up to the limit of 1/3 of the contractual working hours. This rate cannot be less than 10 %.

Unless stipulated in the collective agreement, the extra rate of pay for additional hours is 10 % for hours worked up to the limit of 1/10 of the hours stipulated in the contract and 25 % for each hour worked between 1/10 and 1/3 of the hours stipulated in the employment contract.

The employee can refuse to work additional hours if they exceed the limits stipulated in the contract or if the employee has been notified less than 3 days before.

The employment contract must be modified if, for a period of 12 consecutive weeks (or for 12 weeks during a period of 15 weeks), the average hours worked exceeded the hours initially stipulated in the contract by at least 2 hours per week.

STATUS OF PART-TIME EMPLOYEE

Part-time employees have the same rights as full-time employees :

- The probation period cannot be longer than for full-time employees,
- Length of service is calculated as if the employees had been employed full-time,
- Paid holidays are earned and calculated according to the same terms as full-time employees,
- Part-time employees can elect and are eligible for the roles of staff representatives under the common law conditions.

They are included in staff numbers based on their hours of work.

Their pay is proportional to that of a full-time employee with an equivalent job. They have a priority right to a full-time job in the company.

Pay for additional hours benefits from a reduction of employee contributions and an income tax exemption up to an annual limit of € 7,500.

Ask us about the possibility for a part-time employee to contribute to a pension plan and supplemental retirement scheme on a salary corresponding to full-time.

11 APPRENTICESHIP CONTRACT

What you need to know :

The apprenticeship contract is a training contract alternating between periods of work within the company and periods of theory training provided in an apprentice training centre (ATC).

It is governed by special rules and has various advantages for the employer.

APPRENTICESHIP CONTRACT

This contract is aimed at young people between the ages of 16 and 29. It allows them to acquire higher vocational and technological qualifications or a professional qualification.

All private sector companies (including temping companies) and associations can sign an apprenticeship contract if the company declares it is taking the necessary measures to organise the training required.

The apprenticeship contract is generally a fixed-term contract of 6 months to 3 years depending on the type of training but it can also be an open contract with an apprenticeship period. It is established in writing, on a standard form, signed by the employer and the apprentice (or his/her legal representative if he/she is a minor) and approved by the director of the training centre.

It must be forwarded to the skills centre (OPCO) applicable to the employer.

Hiring an apprentice is subject to the formalities applicable to any employee : notice of employment and mandatory medicals (prior to hiring or within 2 months of hiring, as appropriate).

Ask us about the possible age limit exceptions.

Ask us about the provisions relating to seasonal apprenticeships or cross-border apprenticeships.

TRAINING

The apprentice's training is carried out partly in the company (or several companies) and partly in the training centre.

All or part of the training provided by the training centre can be carried out remotely. Part of the training can be carried out abroad.

The time the apprentice spends on training outside the company is included in working hours. The young person must be mentored by an apprenticeship supervisor, either the manager of the company or an employee, whose role is to support the apprentice's learning in liaison with the training centre. An apprenticeship supervisor cannot mentor more than 2 apprentices.

Ask us about the skills required to be an apprenticeship supervisor.

APPRENTICESHIP PROCESS

Apprentices are employees in their own right. The legal provisions and the company's collective agreements are applicable to them. The apprentice's salary is based on his/her age and length of service, as a percentage of the minimum wage or the minimum set in the collective agreement. Collective agreements can set higher minimum wages.

Apprentices can claim the payment of overtime and various bonuses and compensations.

The apprentice is entitled to an additional 5 paid working days' leave to prepare for exams, to be taken the month prior to the exams.

If at the end of his/her apprenticeship contract, the apprentice signs a permanent contract with the same company, he/she cannot be required to work a probation period, unless stated otherwise in the collective agreement. His/her length of service is also taken into account.

If aged under 18, the apprentice's working hours are regulated (refer to Fact Sheet 15).

ADVANTAGES OF THE APPRENTICESHIP CONTRACT

Since 1 January 2019, specific exemptions from employer's social security contributions for apprentices have been abolished in favour of the general reduction in employer's contributions, which is now applicable to apprentices.

Furthermore, the apprentices' salary is exempt from employee social security contributions for up to 79 % of the minimum wage and from CSG/CRDS on all the salary.

Apprentice contributions are now calculated on the apprentice's actual salary.

For contracts signed since 1 January 2023, employers of up to 250 employees who hire apprentices preparing for a qualification equivalent to the baccalaureate receive a single grant of € 6,000 for the first year of the contract.

Apprentices are not included in the company's staff numbers.

Ask us : for contracts which are not eligible for a single grant, a special grant of € 6,000 for the first year of the contract has been implemented until the end of 2024.

Check the provisions applicable in your company in relation to registering apprentices for benefit and health plans.

TERMINATION OF APPRENTICESHIP CONTRACT

The apprenticeship contract can be freely terminated by either of the parties up to the end of the apprentice's first 45 days of in-company practical training (consecutive or not). Such termination must be recorded in writing.

For contracts signed since 1 January 2019, the option to terminate the contract after the probation period is less restricted.

Termination can occur either by written agreement signed by both parties or by termination at the initiative of the employer in a number of cases, or by « resignation » of the apprentice according to a specific procedure.

The apprentice also has the option to unilaterally terminate the contract before its expiry if the applicable qualification is obtained, provided that he/she informs the employer in writing at least 1 months before.

The apprenticeship contract cannot be terminated by a certified termination by agreement.

Ask us about the terms to be respected for terminating an apprenticeship contract.

12 PROFESSIONAL TRAINING CONTRACT

What you need to know :

The professional training contract is a sandwich training contract through which the participants can gain a qualification to further their career.

The employer is entitled to certain grants for these contracts.

BENEFICIARIES

Professional training contracts are open to :

- Young people aged 16 to 25 who want to further their initial education,
- Job seekers aged 26 and over,
- Recipients of basic welfare benefits, allowances and disability benefits,
- People who have benefited from inclusion contracts.

Ask us about the specific provisions that may apply for certain beneficiaries.

PROFESSIONAL TRAINING CONTRACT

All employers liable for funding continuing professional development can sign this type of contract.

The contract must be in writing.

- A standard form must be sent within 5 days after the start of the contract to the relevant skills agency (OPCO) for the company (dematerialized transmission : **www.alternance.emploi.gouv.fr**),
- The OPCO decides on the payment of training costs and submits the case to the Direction régionale de l'économie, de l'emploi, du travail et des solidarités (DREETS).

The contract can be a fixed term contract or a permanent contract with a period of professional training.

It can include a probation period.

It can be performed partly abroad for a period not exceeding one year or half the total duration of the contract.

The contract cannot include a penalty clause for training. Such a clause is null and void.

Ask us about how an employee under a professional training contract can be hosted in several companies.

TRAINING

This professional training programme includes periods of work in a company and periods of training. It lasts for a minimum of 6 to 12 months (aside from specific cases).

A training agreement is signed between the company and the training organisation.

The minimum training period is between 15 % and 25 % of the total term of the contract in the case of a fixed-term contract (with a minimum of 150 hours).

It corresponds to the duration of the professional training programme for permanent contracts.

The time dedicated to training outside the company is included in the employee's working hours.

The beneficiary of the contract is supervised by a mentor who also liaises with the training organisation. This can be a qualified employee of the company or the director.

OPCO [skills agencies] can cover the tutoring costs.

If the mentor is an employee, he/she can only perform this role for up to 3 employees, professional training contracts or apprentices (the employer can only mentor 2 employees).

TERMS OF EMPLOYMENT

Holders of professional training contracts are employees in their own right and the regulations and collective agreements of the company are applicable to them.

Young people aged 16 to 25 years old receive a salary fixed as a percentage of the minimum wage based on their age and level of qualification.

Employees aged at least 26 receive a salary which cannot be less than the minimum wage or 85 % of the minimum pay under the collective agreement.

Regulations on working hours concerning workers under the age of 18 apply to minors under a professional training contract (refer to Fact sheet 15).

N.B. : the rate of pay changes on the first day of the month after the young person's birthday.

ADVANTAGES OF THE PROFESSIONAL TRAINING CONTRACT

Employees are not included in the company's staff numbers during the period of professional training.

The training costs are covered by the skills agencies (OPCO).

The employer receives a fixed grant of € 2,000 from the employment agency for hiring a job seeker aged at least 26, who is finding it hard to find a long-term job.

A fixed government grant of € 2,000 is also granted for hiring a job seeker aged 45 and over.

These two fixed grants can be combined.

They can also be combined with grants available under the « free jobs » scheme.

For professional training contracts entered into with effect until 30 april 2024 with employees aged under 30, a special grant is paid to the employer. It amounts to € 6,000 at most for the first year of the contract.

13 PROBATION PERIOD

What you need to know :

The probation period allows the employer to assess the employees' skills in their work, particularly in terms of their experience, and allows employees to assess whether they are suited to the role.

During this period, the employer or employee can terminate the employment contract, with no reasons required and no compensation payable.

EXISTENCE OF PROBATION PERIODS

Probation periods are not a compulsory element of an employment contract. They are not presumed to exist and, as such, the principle and duration of such a period must be expressly stipulated by the employment contract. N.B. : if the employee has not signed his/her employment contract, a probation period cannot be enforced.

Ask us : make sure you do not confuse the probation period with the pre-employment aptitude test.

LENGTH OF PROBATION PERIOD

Full - or part-time permanent contracts can include a probation period for the maximum times set by law indicated below :

- 2 months for manual workers and office employees,
- 3 months for supervisors and technicians,
- 4 months for managers.

Shorter periods than the statutory periods can apply if they are stipulated by the employment contract or a collective agreement signed after 26 June 2008.

The provisions that longer periods than the statutory periods can apply if they are stipulated by a collective agreement signed before 26 June 2008 ended for contracts concluded on or after 9 september 2023.

The probation period is calculated in calendar days. It starts on the 1st day of the contract.

The length of the probation period can be reduced in certain circumstances (employees hired after a fixed-term contract or temporary contract, after an internship and so on).

Ask us about the specific rules applicable to certain categories of employees. You can also refer to the fact sheets included in this handbook relating to fixed term or apprenticeship contracts.

EXTENSION

The probation period must cover a period of time during which the employee is effectively working. If the employment contract is suspended (illness, paid holiday, reduction of working hours and so on), the probation period is extended for an equivalent period of time.

RENEWAL

The probation period can be renewed once provided that this option is stipulated by an extended sector agreement setting the terms and lengths of renewal, and by the employment contract.

The length of the probation period, including renewals, cannot exceed :

- 4 months for manual workers and office employees,
- 6 months for supervisors and technicians,
- 8 months for managers.

The employee must agree to the renewal of his/her probation period.

Such agreement must be provided in writing, clearly and unequivocally, during the initial period.

The length of the probation period must be reasonable given the nature of the role concerned.

Renewal of the probation period must not be decided on the signature of the employment contract.

END OF PROBATION PERIOD

If neither of the parties has expressed the wish to terminate the probation period, the appointment becomes final and the employment contract continues with no further formality.

The employment contract cannot end simply due to the expiry of the probation period or in the event of the employee's refusal to extend it.

TERMINATION OF PROBATION PERIOD

The employee and the employer are free to terminate the employment contract during the probation period, without the need to justify such termination and with no compensation being payable other than paid holidays (unless stated otherwise by a collective agreement). However, a notice period must be observed.

When the probation period is terminated by the employer, the notice period cannot be less than below (except where there are more favourable provisions for the employee) :

- 24 hours for less than 8 days service,
- 48 hours for between 8 days and 1 month's service,
- 2 weeks for over 1 month's service,
- 1 month for over 3 months' service.

The probation period, including renewal, cannot be extended by the length of the notice period.

If the employee terminates the probation period, he/she must provide 48 hours' notice. This is reduced to 24 hours if the employee has been with the company for less than 8 days.

For evidence reasons, the termination of the probation period must be notified by registered letter with return receipt or letter delivered by hand with receipt.

Since the probation period is intended to allow the employer to assess the employee's performance, termination based on considerations not inherent in the employee him/herself is deemed unfair termination. Termination of the probation period based on discriminatory grounds is invalid (illness, maternity and so on).

The employee must be informed of the termination of the probation period sufficiently in advance so the notice period can be observed. Failing this, the employee shall be entitled to payment in lieu.

In the event of unfair termination of the probation period, damages may be paid. If the termination is deemed invalid, the employee is re-employed.

14 WORKING HOURS

What you need to know :

Working hours are governed by precise and complex regulations.

The French Employment Code makes a distinction between public policy provisions, provisions coming within the scope of collective bargaining and supplementary provisions that only apply in the absence of a collective agreement.

Thus it is possible to deviate from the law by a collective agreement, except where public policy provisions are concerned.

STATUTORY WORKING HOURS

These are 35 hours a week for employees paid per month, i.e. 151.67 hours per month.

In certain sectors, longer working hours (for example, 39 hours) are considered equivalent to the statutory hours (35 hours).

There are a number of mechanisms allowing companies to adjust working hours more closely to variations in workload : spreading working hours over a defined period, fixed working hours agreements, time savings account...

Ask us about the best arrangements for your company.

OVERTIME

Hours worked beyond 35 hours per week (or equivalent) are overtime hours.

They are calculated per week. A company agreement or otherwise a sector agreement can define the week (period of 7 consecutive days). If no agreement is reached, the week is defined from Monday 00:00 Sunday 24:00.

Extra pay and/or time off in lieu is granted for overtime.

Failure to include all or some overtime worked on the payslip constitutes an offence of unlawful work subject to a fine of € 45,000 and 3 years imprisonment.

OVERTIME PAY

The increased rate for overtime is set by company agreement or otherwise by sector agreement at no less than 10 %. The increased rates stipulated by a company agreement can be lower than those provided for by a sector agreement. Failing agreement, it is 25 % for the first 8 overtime hours, 50 % from the 44th hour,

Overtime pay benefits from a reduction of employee contributions and a tax allowance up to an annual limit of € 7,500.

For each overtime hour worked, employers are entitled to a fixed reduction of employer contributions of € 1,50 in companies with up to 20 employees and of € 0,50 in companies with 20 to less 250 employees.

The basic hourly rate for overtime must include all bonuses constituting an element of salary when they are the direct counterpart of the work performed by the employee.

Make sure that overtime has been worked at your request.

TIME OFF IN LIEU

A company agreement or otherwise a sector agreement can provide for all or part of the overtime pay and associated increases being substituted by an equivalent amount of time off in lieu.

Ask us about the methods for applying time off in lieu.

ANNUAL QUOTA

This is set by the company agreement or otherwise by the sector agreement.

In the absence of a collective agreement, the annual overtime quota is set at 220 hours per employee.

The CSE must be notified before overtime work up to the annual quota.

In order to be able to work overtime over and above the quota, the CSE must be consulted.

For overtime worked over and above the annual quota, employees are entitled to mandatory time off in addition to the extra pay.

Some overtime is not counted as part of the quota.

If the quota applicable to the company is low and the company regularly uses overtime, it may be appropriate to negotiate a company agreement to increase it.

WEEKLY WORKING HOURS

Weekly working hours cannot exceed 48 hours.

Average weekly working hours cannot exceed 44 hours over a period of 12 consecutive weeks.

A company agreement or otherwise a sector agreement may allow for more than 44 hours per week up to a maximum of 46 hours per week.

Failure to observe the daily and weekly maximum hours are sanctioned, per employee concerned, either by an administrative fine of up to € 4,000 or by a category 4 penalty (amount on page 85).

DAILY WORKING HOURS

Maximum daily working hours are 10 hours. They can be increased by a company agreement or a sector agreement in certain situations.

No more than 6 hours can be worked without taking a break of at least of 20 min.

A minimum of 11 consecutive hours rest must be taken every day.

Maximum working hours must also be observed for employees with multiple jobs.

WEEKLY TIME OFF

A person cannot be employed for more than 6 days a week.

Employees must have 35 consecutive hours off per week including Sunday as a general rule.

Permanent automatic exceptions and individual exceptions subject to authorisation are provided for (Refer to Fact Sheet 18).

Working in excess of the maximum working hours is detrimental to the employee, which must be compensated.

15 WORKING HOURS OF YOUNG PEOPLE UNDER THE AGE OF 18

What you need to know :

There is specific legislation relating to the working hours of young workers under the age of 18.

It is the employer's responsibility to respect this legislation.

EMPLOYMENT OF YOUNG PEOPLE

Young people under the age of 18 cannot be employed for work that exposes them to risks affecting their health, safety or morality or for which they do not have sufficient strength.

Young people aged between 14 and 16 can only work during school holidays of 14 days minimum and provided they have a continuous period of time off that is at least equal to half the total duration of said holidays. Employers who want to hire a young person under these conditions must obtain the prior permission of the employment inspectorate.

If you're considering hiring a minor, you must obtain the parents' written permission.

DAILY WORKING HOURS

Daily working hours cannot exceed 8 hours (7 hours per day for young people under the age of 16).

WEEKLY WORKING HOURS

Weekly working hours cannot exceed the statutory working hours, namely 35 hours.

For activities carried out on construction and public works sites, design, landscaping and maintenance activities carried out on landscaping sites, there may be an exception to the weekly working hours of young people, up to a limit of 5 more hours, and the daily working hours, up to a limit of 2 more hours, subject to notifying the relevant authority.

The young people concerned must then be compensated accordingly.

In other activities, permission must be requested from the employment inspectorate.

Under no circumstances can the working hours of young workers be more than the normal daily or weekly working hours of adults employed in the establishment (category 4 fine, amount on page 85).

BREAKS

Young workers must have a break of at least 30 minutes after 4 1/2 hours of continuous work.

DAILY TIME OFF

The minimum daily time off is 12 consecutive hours (and 14 hours for those aged under 16).

WEEKLY TIME OFF

Young workers have 2 consecutive days off unless stated otherwise by a company agreement or otherwise by an extended sector agreement. However, they must have 36 consecutive hours off.

Failing an exemption, one of the 2 days off must be a Sunday.

N.B. : no exceptions are possible for young people under 16 years of age (except for entertainment businesses).

NIGHT WORK

Night working for young workers under 18 is totally prohibited :

- Between 10 pm and 6 am, for young people aged between 16 and 18,
- Between 8 pm and 6 am, for young people aged under 16.

The employment inspectorate can allow exceptional exemptions or exemptions in certain business sectors.

For example, young people aged between 16 and 18 can work certain night hours in businesses in the bakery, pâtisserie, catering and entertainment sectors.

Any breach of night working regulations is liable for a category 5 fine (amount page 85).

PAID HOLIDAYS

Regardless of his/her length of service, any employee under the age of 21 on 30 April of the previous year is entitled, if requested, to 30 working days paid leave on the basis of holidays actually acquired.

Young employees under the age of 21 on 30 April of the previous year are entitled to 2 additional paid holiday days per dependent child.

PUBLIC HOLIDAYS

Although some public holidays are not taken in the company, young workers must not work on statutory public holidays.

However, an extended sector collective agreement or a company agreement might provide an exemption to this, in certain sectors (hotels, restaurants, bakery, butchers...)

In this case, young workers must benefit from the provisions relating to weekly time off such as the 36 hours of consecutive rest.

Ask us about the provisions applicable to your occupation.

MEDICAL

Young people under the age of 18 are eligible for a preliminary medical prior to being hired.

16 FIXED WORKING TIME AGREEMENTS

What you need to know :

A « convention de forfait » (fixed working time agreement) is a specific system of working hours. It allows the employer and employee to agree on a lump-sum remuneration including the usual salary applicable and overtime.

This arrangement can be based on hours or days. Not all employees can benefit from such an arrangement.

CONDITIONS FOR IMPLEMENTATION

For all such arrangements, an individual written agreement, signed by the employee and the employer, is an essential requirement.

Furthermore, to use this system based on an annual number of hours or days, there must be a relevant company agreement or, if not, a sector agreement specifying the terms thereof.

The applicable legislation and collective agreements determine the categories of employees who can enter into the different fixed working time agreements.

A fixed working time agreement can only be amended by agreement between the employee and the employer.

FIXED WORKING TIME AGREEMENT BASED ON HOURS

These agreements allow for the inclusion of a foreseeable amount of overtime indicated in the contract to be included in the employee's working hours and over the period determined.

The arrangement can be on a weekly, monthly or annual basis.

The agreement lays down lump-sum remuneration including the usual salary and payment of set overtime. If the employee works more hours than the set amount of hours, these hours are counted and paid at the higher rates.Conversely, if the number of hours worked is less than the set amount, the fixed salary must be paid.

The system of fixed working time based on hours per week or month is applicable to all employees, both executives and non-executives.

Annual fixed working time agreements are only available to :

- Executives whose roles do not allow them to comply with the standard working hours applicable within the company,
- Executives or non-executives who have total autonomy in how they arrange their use of time.

The collective agreement allowing annual fixed working time agreements must include certain details including categories of employees concerned, reference period, number of hours included, conditions regarding absences and so on.

Employees under fixed working time agreements are subject to the rules relating to maximum daily and weekly working hours, as well as daily and weekly time off.

Even when a fixed working time agreement based on hours has been signed, the employer is nonetheless required to provide proof of the number of hours worked. The overtime quota does not apply to this type of agreement.

FIXED WORKING TIME AGREEMENT BASED ON DAYS

The system of fixed working time based on days allows employees to be paid on the basis of an annual number of days worked, without calculating hours worked.

The annual number of working days is 218 days maximum.

A fixed working time agreement can be signed by :

- Executives who have autonomy in their use of time and whose duties do not allow them to comply with standard working hours,
- Employees whose working hours cannot be predetermined and who have a real autonomy in the organisation of their use of time for fulfilling their responsibilities.

Ask us about the minimum clauses that must be included in the collective agreement setting up the fixed working days system.

If an annual fixed working time system based on days is applied without a collective or individual agreement, it is deemed invalid and the overtime system is applied.

FIXED WORKING DAYS SYSTEM AND WORKING HOURS

Employees under the fixed working days system are not required to comply with the requirements relating to maximum daily and weekly working hours.

But they benefit from the statutory guarantees related to daily and weekly time off, paid holiday and public holidays within the company.

The employer must regularly check that the employee's workload is reasonable and allows a good balance in their work time.

The collective agreement authorising the fixed working days system determines the conditions under which :

- The employer assesses and regularly monitors the employee's workload,
- The employer and the employee periodically discuss the employee's workload, his/her work/life balance, his/her pay and how work is organised in the company (annual review),
- Employees can exercise their right to disconnect.

The working hours of employees under the fixed working days system are calculated every year by adding up the number of days or half-days worked.

Ask us : if the provisions of the collective agreement on monitoring workload are inadequate, the employer can implement additional measures and thus legitimately sign an individual fixed working time agreement.

FIXED WORKING DAYS SYSTEM AND SALARY

The employee's salary must take into account the workload placed on the employee under this system. It is freely determined by the parties ; the amount is not to be compared with the application of increased rates for overtime.

FIXED WORKING DAYS SYSTEM AND DAYS OFF

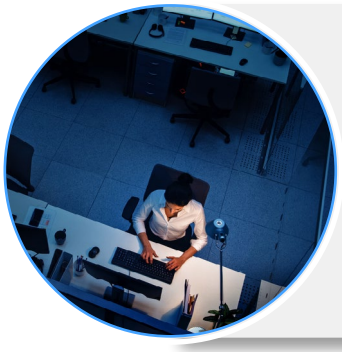
Employees under this system can give up some of their days off, if they wish, in agreement with the employer. In this case, the number of days worked over the year cannot exceed 235 days.

This extra work time is paid at an increased rate of at least 10 %.

An addendum to the individual agreement must be signed.

Paid overtime benefits from a reduction of employee contributions and a tax allowance up to an annual limit of € 7,500 and a fixed reduction of employer contributions.

17 MONITORING OF WORKING HOURS



What you need to know :

According to the French employment code, certain documents must be kept to monitor the working hours worked in the company.

These documents must be accessible to the employment inspectorate. In the event of a dispute, they also can be used as evidence of hours worked.

MONITORING OF HOURS WORKED

The company can adopt a set work schedule: all employees follow the same schedule which must indicate the start and end time of each work period.

Conversely, a company may stipulate that employees arrive, leave, and take a lunch break at different times.

Working hours can be monitored by various means including clocking-in or a self-reporting system.

Geolocation cannot be used to monitor working hours if another method is possible.

COMPANY WORKING HOURS

Company working hours can be set by collective agreement or by unilateral decision of the employer.

The social and economic committee must be previously consulted on the initial company working hours and proposed amendments of these working hours.

Company working hours are also sent to the employment inspectorate.

They are posted in the work premises, dated and signed by the company manager.

If overtime is worked on a regular basis, the company work schedule will indicate this.

If overtime is worked occasionally, it must be recorded in an individual account.

There may be several set work schedules in the same company, for example per department.

Failure to post company working hours is subject to a category 4 fine (amount page 85).

ABSENCE OF COMPANY WORKING HOURS

In this case, 2 types of documents must be kept :

- A daily record and a weekly summary of each employee's working hours.
  - On a daily basis, a record of the start and end time of each period worked or a record of hours worked,
  - Each week, summary of the number of hours worked by each employee.
- An attachment to the payslip indicating :
  - Total overtime worked since the start of the year,
  - Amount of substitute time off in lieu earned and taken during the month,
  - Number of RTT days taken during the month.

The social and economic committee can view these documents.

Get your employees to sign their statements of working hours, check them and keep them for at least 3 years.

Failure to keep these accounts is sanctioned, per employee concerned, either by an administrative fine of up to € 4,000 or a category 4 penalty (amount on page 85).

IN THE EVENT OF FIXED ANNUAL WORKING TIME IN DAYS

Working hours must be calculated every year by adding up the number of days or half-days worked by each employee.

Agreements or collective agreements providing for fixed working day arrangements must determine the methods used to regularly assess and monitor the employee's work load.

In the event of inadequate systems monitoring working hours, fixed working day agreements may be invalidated and result in the payment of overtime.

PROOF OF HOURS WORKED

In the event of a dispute concerning the existence or number of hours worked, the employer must provide information to the courts that can justify the hours actually worked by the employee.

If overtime hours entitled to a reduction in social security contributions are worked, the documents recording working hours must be made available to URSSAF inspectors.

Ask us how to set up a system for monitoring working hours.

18 SUNDAY WORKING

What you need to know :

Sunday is in principle the weekly day off. However, there are many exceptions so employees may have to work on a Sunday.

These exceptions can be permanent or temporary, subject to authorisation or not, applicable to the whole country or to certain precisely defined areas.

THE PRINCIPLE OF WEEKLY TIME OFF

Employees cannot work more than 6 days a week and are entitled to a minimum weekly time off of 24 consecutive hours, in principle on Sunday.

The daily time off of 11 consecutive hours is added to this weekly time off.

Weekly time off is therefore 35 hours in all companies.

Failure to comply with the following conditions of the Employment Code relating to weekly time off and Sunday rest, is punishable by an administrative fine of € 4,000 maximum, or by a category 5 penal fine (amount page 85).

AUTOMATIC EXEMPTIONS

In establishments that need to operate or open on a Sunday due to production or business requirements or due to the needs of the public, there may be an exemption to the Sunday rest rule. The weekly time off is then allocated by rotation so some employees will have to work on Sunday. Unless stated by a collective agreement, employees do not receive specific considerations for working on a Sunday.

Food stores can open on Sunday morning until 1 p.m. Employees are given a day off in lieu, by rotation and per two weeks. A 30 % increase in salary is provided for but only for employees working in stores with a surface area of over 400m2.

A complete list of businesses concerned is given in article R. 3132-5 of the French employment code (e.g. healthcare facilities, hotels, restaurants, funeral directors, furniture retail…).

EXCEPTIONS ACCORDING TO COLLECTIVE AGREEMENTS

In industrial companies, a company agreement or otherwise an extended sector agreement may, for economic reasons, provide for the possibility of organising work continuously and to allocate weekly time off by rotation. No specific statutory considerations are stipulated.

In these same sectors, organising work with back-up teams for days off is also possible.

The employees of the back-up team benefit from a pay increase of at least 50 %.

EXEMPTIONS GRANTED BY THE PRÉFET OR LOCAL AUTHORITY

Temporary exemptions are granted by the préfet for retail stores if making Sunday the rest day for employees is prejudicial to the public or compromises the normal operation of the business.

Authorisation is given, in accordance with a specific procedure, for a period of 3 years maximum. Only employees who volunteer to do so can work on a Sunday. A collective agreement determines the considerations received by employees.

In the event of a unilateral decision by the employer approved by referendum, employees receive double pay for working on a Sunday and time off in lieu.

In non-food retail stores, where the weekly day off is normally Sunday, this can be changed for 12 Sundays a year, by decision of the local authority.

Employees are paid at least double their normal pay due for an equivalent period and are given equivalent time off in lieu.

Only employees who have volunteered and agreed in writing can work on Sundays.

A list of the Sundays must be determined before 31 December for the following year.

EXEMPTIONS IN CERTAIN GEOGRAPHICAL AREAS

Retail businesses supplying goods and services situated in certain areas of the country can grant weekly time off by rotation to all or part of their staff.

So some employees may have to work on Sunday.

To enable this, the business concerned must be covered either by a company agreement or otherwise a sector agreement, or an agreement signed for a geographical area. Working on a Sunay is voluntary and compulsory compensations are due, particularly in the form of a salary.

Four types of areas are defined by law : international tourist zones (ZTI), commercial zones, tourist zones and certain exceptionally busy railway stations.

ZTIs have been established by decree in certain districts of Paris and provincial cities (Cannes, Deauville, Nice…).

A decree has also identified the stations where shops can open on a Sunday (Paris, Lyon Part Dieu, Bordeaux Saint-Jean…).

Commercial areas and tourist areas are determined by the préfet.

Ask us about the procedures for Sunday working, in certain geographical areas, for companies with less than 11 employees.

Ask us : a special exemption from Sunday rest is implemented for the 2024 Olympic Games for retail stores located close to competition venues.

NOTIFICATION OF EMPLOYEES

When time off is given collectively to all staff on a day other than Sunday, the employer indicates the days and times applicable by all available means.

When time off is not given collectively to all staff on Sunday, the employer must keep a weekly register of time off.

19 BENEFITS

What you need to know :

Bonuses and pay rises are not the only ways to increase the income employees receive.

There are other solutions, some of which allow partial or full exemption from social security contributions.

MEAL VOUCHERS

The employer can contribute to the purchase of meal vouchers for employees.

The employer's contribution must be between 50 % and 60 % of the voucher.

This contribution is exempt from social security contributions up to a maximum amount set each year (€ 7.18 from 1 january 2024).

Only one meal voucher can be allocated per working day, provided that the meal is within working hours.

SUPPLEMENTARY PENSION AND BENEFIT PLANS

Over and above the obligations laid down by legislation and collective agreements, the employer can set up a pension or benefit plan for employees supplementing the basic plans, and pay part of the contributions.

These employer contributions will be exempt from social security contributions if the contracts and amounts funded meet highly regulated conditions (refer Fact Sheet 21).

Ask us, to make sure your your contracts allow employer contributions to be exempted from social security charges.

PROFIT-SHARING

Any company, regardless of the number of employees, can optionally set up an incentive scheme to pay sums to employees calculated on the basis of the company's results or performance.

To set up a profit-sharing system, an agreement must be signed, but under certain conditions, in companies with up to 50 employees, profit-sharing can be set up by unilateral decision by the employer.

Profit-sharing sums paid are only liable for CSG/ CRDS contributions. They are exempt from the forfait social [paid by employer] in companies with less than 250 employees. They are subject to income tax except in the case of investment in a saving plan (refer to Fact Sheet 24).

Ask us, we can help you set up a profit-sharing agreement in your company.

SHOPPING VOUCHERS AND GIFT CERTIFICATES

The employer may give employees gift vouchers for specific events in their life and these are exempt from social security contributions if they do not exceed 5 % of the monthly social security limit over the year (€ 193 in 2024).

This cap can be exceeded under certain conditions : for example for Christmas or return to school, the threshold is 5 % per child per event.

The employer can give « culture vouchers » to its employees, to help pay for cultural products or services only (cinema tickets, museums, books, DVDs...) which are totally exempt from social security contributions.

The exemption applicable to shopping vouchers or gift certificates does not apply to those paid by the employer when there is a Social and Economic Committee (CSE) (companies with at least 50 employees).

Ask us, this exemption relies on a URSSAF waiver with strict application conditions.

Please note that specific arrangements are planned for gift vouchers granted for 2024 Olympic Games.

BENEFITS IN KIND

Benefits in kind correspond to goods or services provided by the employer for free (or in return for a contribution less than their actual value) for employees' private use :

- Vehicle, company accommodation, food...,
- Computing and communication equipment : PC, mobile, software programmes, Internet...

Benefits in kind are liable for social security contributions (refer to Fact Sheet 22).

Ask us about the methods for valuing benefits in kind.

HOLIDAY VOUCHERS

In companies with less than 50 employees, the employer's contribution to holiday vouchers is exempt from social security contributions (excluding CSG/CRDS and transport payment) up to a limit of 30 % of the monthly minimum wage per employee and per year, if certain conditions are met.

Managers of companies with less than 50 employees can also receive holiday vouchers.

Ask us about how to organise holiday vouchers.

CHÈQUE EMPLOI SERVICE UNIVERSEL (CESU)

The employer can help fund CESUs [vouchers for domestic and personal services] for its employees. The employee can use these pre-financed vouchers to pay for domestic workers or personal service providers.

Subsidies paid by the company are exempt from social security charges within a certain limit (€ 2,421 as of 1 january 2024). The company benefits from a tax credit of 25 % of subsidies paid.

The director or manager of the company can also receive such vouchers provided that all employees are entitled to them.

SPORTS EQUIPMENT

The provision by the employer of shared sports equipment and the funding of sports for all employees are exempt from social security contributions within certain limits.

« Peripheral » benefits do not appear on the payslip, so it's important to ensure employees appreciate them.

20 CONTRIBUTION TO TRAVEL COSTS

What you need to know :

All companies, regardless of where they are located in France and their headcount, are required to reimburse part of the public transport costs incurred by their employees to get from their home to their place of work.

Employers also have the option to pay all or some of the private transport costs incurred by employees for this same journey.

REIMBURSEMENT OF PUBLIC TRANSPORT COSTS

The employer is required to reimburse home-to-work transport costs if employees :

- Use public transport or a public bike hire service,
- Buy season tickets.

Employers who do not comply with this obligation are liable for the fine stipulated for category 4 violations (amount page 85).

AMOUNT OF REIMBURSEMENT OF PUBLIC TRANSPORT COSTS

50 % of 2nd class fare tickets is reimbursed.

This applies to the tickets required to make the journey from the employee's usual home address to the place of work in the shortest time.

For part-time employees, if the weekly working hours are 17 ½ hours or more, the reimbursement is the same as for full-time employees, otherwise it is calculated prorata.

Check the provisions of your collective agreement which may be more favourable.

TERMS OF REIMBURSEMENT OF PUBLIC TRANSPORT COSTS

Costs are reimbursed at the latest at the end of the month after the month of validity of the tickets.

Reimbursement for annual tickets is spread monthly over the period of use.

Employees must submit or present their tickets to obtain reimbursement.

The tickets must identify the holder.

TAX AND SOCIAL SECURITY RULES FOR REIMBURSEMENT OF PUBLIC TRANSPORT COSTS

The reimbursement amount must be shown on the payslip.

It is exempt from social security charges, including where a specific fixed deduction for business expenses is applied. It is exempt from income tax.

Ask us about the options for the employer to exceed its statutory obligation without affecting the social security exemption.

REIMBURSEMENT OF PERSONAL TRANSPORT COSTS

The employer may cover all or part of the fuel (or electricity) costs incurred by employees for travel between their usual home and their place of work. Such reimbursement is optional.

It only concerns employees who have to use their private vehicle :

- Because their usual residence or place of work is outside an area covered by public transport, or
- Because using a private vehicle is essential due to working hours that do not allow use of public transport.

Reimbursements must be made for all staff able to claim them, according to the same terms and based on the distance between the home and place of work.

For part-time employees, a pro rata calculation is carried out under the same conditions as for public transport.

It cannot be combined with the compulsory reimbursement of public transport costs or with the application of a specific fixed deduction for business expenses.

This does not apply to employees with a company car or employees whose transport is provided free by the employer.

From 2022 to 2024, all employees who incur fuel costs are eligible for the travel allowance even if they can use public transport. This allowance can be combined with compulsory reimbursement of public transport.

SUSTAINABLE MOBILITY ALLOWANCE

The employer may also pay all or part of the home-to-work travel costs incurred by its employees using the following types of transport, in the form of a « sustainable mobility allowance » :

- Private bike (mechanical or assisted),
- Motorized transportation device (electric scooter, etc.),
- Carpool driver or passenger,
- Public transport (except for season ticket costs covered by the compulsory reimbursement of 50 %),
- With the help of other shared mobility services (rental of mopeds, electric vehicle carpooling….).

The employer must ask the employee each year for proof of use of the means of travel indicated.

TERMS OF REIMBURSEMENT OF PERSONAL TRANSPORT COSTS

The amount, terms and conditions for the reimbursement of personal transport costs are determined by a company agreement or otherwise by sector agreement. In the absence of an agreement, such costs are reimbursed by unilateral decision of the employer, after consultation with the CSE if it exists.

Ask us : for companies with 50+ employees, mobility is now included as one of the topics for mandatory negotiation on quality of life at work.

TAX AND SOCIAL SECURITY RULES FOR REIMBURSEMENT OF PERSONAL TRANSPORT COSTS

The amounts paid by the employer (fuel costs, electricity costs and « sustainable mobility » allowance) are exempt from social security contributions and income tax, up to an overall limit of € 500 (€ 700 from 2022 to 2024) per employee per year, with a maximum of € 200 (€ 400 from 2022 to 2024) for fuel costs.

When the « sustainable mobility » allowance is paid in conjunction with the payment of public transport costs, the benefit resulting from these two payments cannot exceed € 800 per year or the amount reimbursed for public transport if it already exceeds this amount.

Since 1 January 2022, theemployer can pay the travel allowance and sustainable mobility package via an electronic prepaid payment solution : « the mobility pass ».

21 SUPPLEMENTAL EMPLOYEE BENEFITS

What you need to know :

Supplemental employee benefits are defined as all the cover arranged by companies for all or some of their employees to supplement the social security benefits paid to cover sickness, disability and death. Implementing such protection can be optional for the company or imposed by the applicable legislation or collective/sector agreements. In all cases, the employer assumes certain obligations in setting up such benefits.

OBLIGATORY SCHEMES

An employee benefits plan is compulsory for management staff. The employer pays a contribution of at least 1.5 % of the salary up to the social security limit, to fund supplemental death benefits in additional to the social security benefits (so-called « heavy » benefits). But collective agreements often impose the provision of supplemental benefits including for non-management employees.

Furthermore, in accordance with the law, all companies are required to provide compulsory minimum health cover for all employees funded at least 50 % by the employer.

If employers fail to fulfil their obligations under the law or collective agreements applicable, they will be liable for the uninsured risks.

In addition to these obligations, employers can voluntarily set up supplemental employee benefit or health cover plans.

Make sure that the policy arranged with your insurer complies with the applicable legislation or your collective agreement.

As of 1 December 2020, a company wishing to change its insurer can terminate its supplemental health insurance policy at any time, once the first year has elapsed.

TERMS OF IMPLEMENTATION

A supplemental employee benefits scheme must be set up on the basis of a legal document :

- Agreement or collective agreement (sector or company),
- Ratification by the majority of interested parties of a draft agreement proposed by the company manager,
- Unilateral decision by the employer recorded in a written document given to each party concerned.

The content of this legal document is governed by law ; it defines in particular the cover provided, the way such cover is funded between the employee and the employer and the cases for dispensation from affiliation, where applicable.

In the event of existence of an employee benefits plan or healthcare cover in the company exceeding collective agreement obligations, make sure that you have a company agreement or unilateral decision formalising the implementation and this company agreement or unilateral decision complies with most recent changes to the law.

NOTIFICATION OF EMPLOYEES

The employer must give the employee a comprehensive guide to the cover provided by the policies arranged within the company and the terms of application of such cover.

The employer must be able to **prove** that all its employees have received the guide, otherwise the clauses of the contract are not applicable to the employee who can make a claim against the employee in case of loss.

Make sure that when changes are made to the contract, a new guide is given to the employee.

AFFILIATION OF EMPLOYEES

The employer is responsible for individually registering each beneficiary with the company's existing employee benefit plans.

Similarly, when an employee leaves the company, the employer must remove said employee from such plans.

Ask us, in some cases, the employee may apply to be exempt from affiliation.

TRANSFERABILITY OF EMPLOYEE BENEFIT PLANS

If the employment contract is terminated and the employee is eligible for unemployment benefits (redundancy, termination by agreement, end of short-term contract, resignation for legitimate reasons and so on), the employee retains the « health » and « employee benefits » cover he/she benefited from in his/her previous company.

Cover is also maintained during the period of unemployment, for a maximum period equivalent to the last contract, for up to 12 months.

Sector agreements may sometimes specify longer maintenance times.

Such benefits are funded by mutualisation, in other words with no additional cost to the employee.

The employer indicates the employee's right to transferability on the employment certificate provided.

It also informs the insurance company of the termination of the employment contract.

The former employee is responsible for providing proof to the insurance company that he/she fulfils the requirements to benefit from this mechanism, on joining and during the period of maintained cover.

FUNDING OF SUPPLEMENTAL EMPLOYEE BENEFIT PLANS

These plans are funded, in principle, by contributions paid by the employee and the employer.

The payment by the employer is exempt from social security contributions if the policies meet certain conditions and if the sums funded are within certain limits.

Employers' contributions funding supplemental employee protection schemes are liable for CSG and CRDS contributions. They are also liable for the forfait social, at the rate of 8 %, for companies with 11 employees and more. However, if this threshold of 11 employees is passed, the company remains exempt from the forfait social for 5 years.

Employer contributions funding « healthcare » cover constitute a benefit for the employee and are therefore liable for income tax.

Ask us to make sure you are eligible for exemption from social security contributions, in case you have a URSSAF audit : documents to be produced, collective and compulsory schemes, dispensations, agreements and so on.

22 BENEFITS IN KIND

What you need to know :

When an employee uses a service provided by the employer for personal purposes, this is deemed a benefit in kind. There are various kinds of benefits in kind and they are considered to be part of the salary on which social security contributions are paid.

The value of such benefits is based on the saving made by the beneficiary but there may be set values in certain cases.

THE PRINCIPLE OF BENEFITS IN KIND

Benefits in kind include goods or services provided by the employer to employees for free (or for a contribution lower than their actual value) for their personal use. They are part of the salary added to cash payments.

Benefits in kind, on which contributions are due, must be seen as distinct from goods or services provided to employees for business purposes which are deemed to be business expenses paid by the employer and exempt from contributions (refer Fact Sheet 23).

Benefits in kind must be shown on the pay slip.

VALUATION OF BENEFITS IN KIND

In principle, benefits in kind are included in the base for social security contributions based on their actual value, which corresponds to the value of the saving for the beneficiary.

As an exception, some benefits in kind may have a set value, such as the following : food, accommodation, vehicles and computing and communication equipment.

The set amounts are determined by the URSSAF [social security agency]. Benefits in kind estimated on an actual basis can be lower than the set value subject to the production of evidence.

The amount of the benefits determined on a set value constitutes a minimum valuation, in the absence of higher amounts provided for by the collective agreement. Where the collective agreement provides for a lower valuation, it cannot be used to determine the basis for contributions.

FOOD BENEFITS IN KIND

When the employer helps pay for its employees' meals, aside from during business trips, this constitutes a benefit in kind whether the employer provides the meals for free or at a modest price (in a company restaurant for example).

Food benefits in kind are valued by the URSSAF at € 5.35 per meal (value at as 1/1/2024).

In Hotels-Cafes-Restaurants, the value of food benefits in kind is worked out in a specific way (€ 4.15 value at as 1/1/2024).

Since 1 January 2020, food benefits in kind received by company officers can take the form of a fixed sum.

VEHICLE BENEFITS IN KIND

The personal use of a vehicle provided to the employee on a permanent basis is a benefit in kind.

When the employee returns the vehicle during his/her weekly time off and during holidays, this is not seen as a benefit in kind.

Working out the actual value takes into the account the purchase price of the vehicle, servicing costs, insurance and, where applicable, fuel costs paid by the employer.

It is calculated on the basis of the number of kilometres travelled annually for the employee's personal use.

The fixed value is a percentage of the purchase price of the vehicle or its annual cost in the case of leasing.

Up until 31 December 2024, the electricity costs paid by the employer for electric vehicles will not be taken into account in the calculation of benefits in kind. In addition, the latter is calculated after applying a 50 % rebate up to the limit of € 1,964.90 per year (value for 2024). Moreover, the benefit in kind resulting from the employee's use of an electric terminal installed at the workplace for non-professional purposes does not create a benefit in kind.

Ask us if you want an estimated value for a vehicle benefit in kind.

Think about re-evaluating it regulary.

COMPUTING AND COMMUNICATION BENEFITS IN KIND

When the employer provides computing and communication equipment (computer, mobile telephone, internet access, etc) to an employee on a permanent basis, for business purposes, the personal use of such equipment is a benefit in kind.

However, the reasonable use of such equipment for the employee's everyday life is not considered to be a benefit in kind.

The set value of the benefit in kind is calculated annually on the basis of 10 % of the purchase price including tax of such equipment or, where applicable, the annual contract cost including tax.

When the employer chooses to value the benefit on the basis of actual expenditures incurred, it must submit proof of the amount of time the employee spends on private use.

Special arrangements apply when the employer produces or provides this type of service.

ACCOMMODATION BENEFITS IN KIND

When the employer provides accommodation to an employee, for free or for a small contribution, this is considered to be an accommodation benefit in kind for the part used for personal purposes.

The actual value is calculated using the rental value used as the basis for local residence tax.

The set value is based on a schedule according to the employee's monthly salary and the number of main rooms the accommodation comprises.

Where the employer directly pays the employee's rent (lease in employee's name), social security contributions are payable on all the sums paid.

In general, when the company pays the employee's personal costs, a benefit in kind is established (clothing costs, company products, trips offered by the employer, traffic fines…).

23 BUSINESS EXPENSES

What you need to know :

Business expenses are specific costs, inherent in the employee's role or job, which are incurred by the employee in performing his/her duties.

Business expenses are not included in the base for social security contributions if they are justified.

THE PRINCIPLE OF BUSINESS EXPENSES

Employees must be reimbursed for costs they can justify they have incurred for the purposes of their work and in the interests of the company.

They are exempt from social security contributions if they meet the following requirements :

- Correspond to business expenses,
- Are justified by adequate invoices and receipts to prove that the expenses were incurred and the amount of the expenses,
- Are reasonable.

The employer determines the terms under which business expenses are reimbursed.

VALUATION OF BUSINESS EXPENSES

Business expenses are covered :

- By the reimbursement of expenses actually incurred by the employee based on receipts,
- By the payment of fixed allocations.

The relevant authorities set the amount of fixed sums for different categories of business expenses.

If the allocation paid by the employer is less than the schedule established, it is deemed to have been used as intended and is excluded from social contributions.

If the allocation paid by the employer is higher than the amount set by the authority, the sum paid can only be exempt from social security contributions in its entirety if the employer provides supporting documents.

Otherwise, the difference must be reintegrated into the base for contributions if the expense account is issued but the employer does not provide supporting documents.

Company officers are only entitled to payment of business expenses on the basis of expenses actually incurred.

SPECIFIC FIXED DEDUCTION FOR BUSINESSES EXPENSES

Some occupations benefit from a specific fixed deduction for business expenses that allows the reduction of the base of social security contributions (construction workers, sales reps, journalists, etc.).

However, its application is now subject to the employee incurring the expenses when performing

his/her duties and the employer being provided invoices and receipts evidencing this.

The employer can decide whether or not to apply the specific fixed deduction.

The employee must agree to this in writing (unless there is an applicable collective agreement). Beforehand, employee must be informed of the scheme and its consequences for the validation of his social security entitlements.

In this case, business expenses must be reintegrated into the base of social contributions before applying the specific fixed deduction.

In view of the tightening of the application rules for the specific fixed deduction, some professions have decided to gradually leave this mechanism (cleaning, public buildings and works, journalists, road freight transport, civil aviation, casinos and gaming circles, live and recorded entertainment).

The URSSAF may question the application of the specific fixed deduction if the employer cannot provide proof of the employee's annual agreement.

FOOD COSTS

When the employee is travelling for business and is therefore unable to return to his/her home or his/her usual place of work and has to eat in a restaurant, his/her meal costs are exempt from contributions for up to € 20,70 per meal (for 2024) without the employer needing to provide supporting documents.

The employer may still prefer to offer a reimbursement based on the expenses actually incurred based on a receipt.

Employees cannot combine a reimbursement of meal expenses with the allocation of a meal voucher for the same meal.

Ask us about the specific allowances when meals are eaten at the place of work (shift work, night work and so on) or for employees on assignment but whose circumstances prevent them from eating in a restaurant (e.g. : employee working on a site).

VEHICLE COSTS

When the employee has to use his personal vehicle for business purposes, the fixed mileage allowance is exempt from social security contributions within the limits set by the mileage schedule of the tax office.

These provisions are also applicable to company officers.

Proof of kilometres travelled will need to be provided.

The mileage schedule is increased of 20 % for all electric vehicles.

LONG DISTANCE TRAVEL EXPENSES

Long distance travel is characterised by the fact that the employee is unable to return home every day due to working conditions, namely, when 2 conditions are simultaneously met :

- The distance from home to place of work is 50 km or more (go or return),
- The public transport available does not allow this distance to be covered in less than 1 hr 30 min,

A schedule is determined for meal and accommodation expenses (with breakfast). This schedule differs for assignments up to 3 months, assignments above 3 months and up to 24 months and those above 24 months to 72 months. For accommodation, a distinction is made between assignments within Paris and inner area and assignments in other départements.

Ask us : there are provisions for other categories of business expenses : costs related to occupational mobility, costs related to remote working and the use of computing and communication equipment…

24 EMPLOYEE SAVINGS SCHEMES

What you need to know :

Employee savings schemes include various mechanisms aimed at involving employees in the company's results and performance and fostering collective saving. Such employee savings schemes, which are separate from salaries and cannot take their place, are a factor of motivation.

They benefit from preferential social security and tax treatment. A distinction is made between profit-sharing and incentives

PROFIT-SHARING

Profit-sharing is a compulsory system for companies with at least 50 employees, optional for others. Profit-sharing is a way to redistribute some of the company's profits to the employees. The formula for calculating profit is established by law but a different formula may be stipulated by the company under certain conditions.

Since 1 January 2020, the threshold of 50 employees is assessed according to the social security staffing rules. If the threshold of 50 employees is crossed, the obligation to implement profit-sharing only applies after 5 years.

INCENTIVES

Incentives are an optional system which can be implemented in any company, regardless of the number of employees. They are a way of financially involving employees in the company's performance.

They consist of paying employees an additional sum based on meeting targets defined on the basis of precise criteria.

The calculation formula is freely set by the parties in the company agreement and must be variable.

Ask us about the most appropriate calculation formula for your company.

IMPLEMENTATION

Incentives and profit-sharing are implemented by an agreement signed by the company. The employer can also join a saving mechanism defined at sector level. In companies with less than 50 employees, incentive schemes can be set up by the employer by unilateral decision, under certain conditions.

The agreement or unilateral decision must be filed with the DREETS, in order for the tax and social security breaks to apply.

Incentive agreements are signed for a period from 1 to 5 years.

Ask us about the content of incentive or profit-sharing agreements and the terms under which they are signed.

BENEFICIARIES

In principle, all employees of the company must benefit from profit-sharing or incentives. However, a length of service condition, which cannot exceed 3 months, may be required.

Sums due are distributed between employees in a uniform way or in proportion with salaries or hours, or by combining several of these criteria. Maximum payment limits per employee are stipulated.

If provided by the agreement, in companies with 1 to 250 employees, the manager, his/her spouse or civil partner (associate or partner) can benefit from profit-sharing (under certain conditions) or incentives.

ALLOCATION OF AMOUNTS

The amount of sums received, for incentives or profit-sharing, is by nature variable.

Profit-sharing sums paid are inprinciple unavailable for 5 years but there are cases for early release. However, for each profit-share distribution, the employee can request immediate payment.

Amounts paid in the form of an incentive are either paid immediately or invested in a company savings plan. If the employee does not choose, the sums are allocated in full to the savings plan.

The company may decide, under certain conditions, to allocate a supplementary profit-share or incentive to employees for a particular year.

Ask us about the times to be respected for the payment of profit-sharing and incentives.

TAX AND SOCIAL SECURITY BENEFITS

For employees, sums received in the form of incentives or profit-sharing are exempt from social security contributions with the exception of CSG and CRDS. They are subject to income tax if they are received immediately.

For the company, sums paid for incentive schemes or profit-sharing are exempt from social security contributions.

The forfait social (employer's contribution at the rate of 20 %) is not due in companies with less than 50 employees for all schemes (profit-sharing, incentives, top-ups).

In companies with 50 to 249 employees, the forfait social is not due for incentives only.

Sums paid in the form of incentives and profit-sharing are deductible from the company's profit.

Sums allocated in the form of incentives or profit-sharing cannot substitute any element of pay applicable in the company.

EMPLOYEE SAVINGS PLANS

Employee savings plans are schemes into which sums received from incentive or profit-sharing, as well as voluntary payments by the employee and the company (« top-ups »), are paid and grow. They must include a grant from the employer (payment of charges and/or top-ups).

They can be set up by any company. These can be company savings plans (PEE) or a collective company pension plan (PERE-CO) (which has replaced the PERCO since 1 October 2020).

The PEE gives employees the option to create a portfolio of securities. The sums paid into the PEE are frozen for 5 years (certain cases for early release apply). It is compulsory to set up a PEE for a profit-sharing agreement.

The PERE-CO allow employees to create savings for themselves which are accessible when they retire. Certain cases for early release are determined.

Ask us about terms under which the employer can top up savings plans.

On signature of their employment contract, all employees must be informed of the employee savings schemes set up in the company and their content.

25 VALUE-SHARING BONUS

What you need to know :

To improve purchasing power, the law allows employers to pay a « Value-sharing bonus » to all employees. Subject to some conditions, this bonus qualifies for preferential social security and tax treatment.

IMPLEMENTATION

The value-sharing bonus is optional for employers. It may be implemented either :

- By a company or group agreement entered into under the arrangements applicable to voluntary profit-sharing plans.
- Further to a unilateral decision after consulting the Social and Economic Committee (if one exists).

The company chooses the most suitable implementation method for it. A company agreement does not take priority over a unilateral decision.

The value-sharing bonus is a long-term mechanism, which may be implemented every year, but subject to no obligation for the employer.

Since 1 December 2023, it is possible to allocate 2 PPVs in respect of a same calendar year. The amount, beneficiaries, allocation and modulation requirements may be different between the first and second PPVs. An agreement or unilateral decision must be made for each PPV.

Ask us, special care should be paid to the term of the agreement or the unilateral decision.

EMPLOYERS AND EMPLOYEES CONCERNED

Any company may implement the value-sharing bonus : employers in the private sector, administrative or industrial and commercial institutions in the public sector, employment support and services structures for disabled people.

The value-sharing bonus is available to all employees who have an employment contract with the company on the payment date of the bonus, filing date of the agreement or signature date of the unilateral decision implementing the bonus (option to be specified in the agreement or unilateral decision).

All employees are concerned. There is no salary requirement. However, the employer may pay the bonus only to employees whose salary does not exceed a cap set by the agreement or unilateral decision.

Ask us, Temporary workers are eligible for the bonus implemented in the user company for its own employees.

AMOUNT OF THE VALUE-SHARING BONUS

The amount of the bonus is set freely by the agreement or unilateral decision. It may be lower or higher than the bonus exemption caps.

The amount of the bonus may vary according to the following criteria : salary, classification level, length of service in the company, effective duration of presence during the previous year, working time under a part-time employment contract.

The criteria relating to remuneration, duration of actual presence and duration of work provided for in the contract are assessed over the 12-month period prior to the bonus payment. The criteria of the classification level and length of service are assessed when the bonus is paid.

The variation criteria must be set in the agreement or unilateral decision. They can be combined.

Parental leave (maternity, paternity and adoption leave, parental education leave, etc.) are treated as actual days of presence in the event of variation based on the duration of presence.

EXEMPTION CAPS

To qualify for the various exemptions, the amount of the bonus (s) must not exceed € 3,000 per year and per beneficiary.

This amount is increased to € 6,000 in the following cases :

- Companies, regardless of the headcount, which have a voluntary employee profit-sharing plan on the payment date of the bonus or which have agreed a voluntary employee profit-sharing plan for the same financial year as the bonus payment,
- Employees with less than 50 employees, which are not required to implement a compulsory employee profit-sharing plan, which nevertheless have implemented such a profit-sharing plan on the payment date of the bonus or which have agreed a compulsory employee profit-sharing plan for the same financial year as the bonus payment,
- Public-interest or general-interest associations and foundations authorised to collect donations qualifying for a tax reduction,
- Employment support and services structures for the bonus awarded to disabled people hired under employment assistance and support contracts.

The voluntary incentive or profit-sharing agreement must be entered into before the bonus is paid.

TAX AND SOCIAL SECURITY CONTRIBUTION TREATMENT

Within the limits laid down above, the value-sharing bonus is eligible for an exemption scheme applicable to the social security contribution base (employee and employer share of legal or contractual social security contributions). It is liable for CSG/CRDS contributions, payroll tax and income tax. It is liable for the forfait social in companies with 250 or more employees and on the fraction of the bonus exempt from social security contributions.

From 1 January 2024 to 31 December 2026, in companies with less than 50 employees, it is also exempt from income tax, CSG/CRDS contributions, payroll tax and forfait social for employees whose remuneration during the 12-month period prior to bonus payment is lower than 3 times the minimum wage.

Nevertheless, the bonus exempt from income tax is included in the reference amount of tax income.

PAYMENT TERMS

The bonus(s) may be paid in one or more instalments, up to a maximum of once per quarter during the calendar year. This should be stated in the agreement or unilateral decision.

If an employee is hired after the allocation decision, he/she is not eligible for payments made after he/she joins. If an employee leaves the company before the last payment(s) provided for by the agreement, insofar as he/she was eligible when the bonus was implemented, the outstanding amount of the bonus must be paid to him/her with the full and final settlement.

The value-sharing bonus must be shown on the payslip. It must also be reported in the online payroll reporting statement.

The employee may allocate all or part of the PPV to a company savings plan or company pension plan. In this way, they can benefit from income tax exemption on the sums blocked, up to the ceiling. The employer will be able to top up the savings plan.

The bonus must correspond to additional remuneration. It may not replace any salary component paid by the employer, or any salary or bonus increase provided by a salary agreement, employment contract or common practices in force in the company.

Ask us, from 1 January 2025, companies with 11 and to less 50 employees that have made a net profit for tax purposes equal to at least 1 % of their sales for three consecutive financial years (2022 to 2024) will be required to set up one of the following value-sharing schemes : profit-sharing, incentives, top-ups to a company savings plan or value-sharing bonus.

26 SICK LEAVE AND WORKPLACE ACCIDENTS

What you need to know :

Sick leave or workplace accidents result in the suspension of the employment contract. They involve a number of obligations for employees and employers.

SICK LEAVE - EMPLOYEE OBLIGATIONS

Employees must inform their employer when they are absent due to sickness by sending part 3 of the social security form « Notice of absence from work ». If not stipulated in the collective agreement, a doctor's certificate must generally be sent within 2 days. Similarly, employees must inform the employer if their absence is extended.

Employees must also inform their health insurance provider of their absence from work within 48 hours.

Employees suffering ill health owe a duty of loyalty to their employer.

SICK LEAVE - EMPLOYER OBLIGATIONS

The employer must not ask employees to work during their sick leave, or even engage in any work collaboration.

The law provides that employees absent on sick leave may be entitled to benefits paid by the employer, in addition to those paid by the social security, provided they have been with the company for 1 year.

The salary is maintained at 90 % of the gross amount for 30 days and then at 2/3 of for 30 days. A lead time of 7 days applies. Cover periods are increased by 10 days per entire period of 5 years' service after 1 year, but cannot exceed 90 days.

In the case of successive periods of sick leave, the cover period is limited, for a period of 12 consecutive months, to the cover period acquired due to length of service.

If the collective agreement provides for a more employee-friendly system of compensation, it must be applied.

If there is an employee benefit policy in place in the company, the insurer must be informed to obtain the payment of supplementary benefits, if the conditions are met.

The employer may obtain a second opinion from a medical practitioner if it is required to maintain the salary.

Statutory sick pay does not apply to home workers, seasonal workers, intermittent workers and temporary workers.

SICK LEAVE - CONSEQUENCES

At the end of their sick leave, employees return to their role. A back-to-work medical is mandatory for absences from work due to sickness or a non-occupational accident of at least 60 days and must take place within 8 days of return.

Occupational health can decide that the employee is fit or unfit to return to work.

For sick leave for more than 30 days, the employer must inform the employee that it is entitled to request a medical examination before the employee returns to work.

Employees off work due to non-occupational illness now acquire 2 working days' paid holiday per month.

Illness suspends the employment contract and cannot be grounds for dismissal. However, a prolonged absence or frequent and repeated sick leave leading to organisational problems for the company with the need to permanently replace the employee by hiring someone under a permanent contract, may justify termination of the employment contract.

Ask us about the consequences of sick leave on the probation period, seniority, paid leave, notice.

The employee's doctor may prescribe part-time work for health reasons. An addendum to the employment contract must be drafted for the switch to part-time.

WORKPLACE ACCIDENT

A workplace accident is an accident that occurs due to or during work and affecting any individual who is working, in any way or in any location whatsoever.

The employee must inform the employer within 24 hours of the accident. This can be done verbally where the accident takes place, by registered letter or by email.

The employer must report the work accident within 48 hours of its occurrence to the employee's health insurance provider and must issue an accident statement to the victim.

When an employee is the victim of an accident at work resulting in death, the employer is required to inform the employment inspectorate within 12 hours.

Employees absent for workplace accidents may be entitled to benefits paid by the employer, in addition to those paid by the social security, under the same conditions as in the case of illness. However, the lead time is not applicable. The collective agreement may provide for a more favourable arrangement.

If there is an employee benefit scheme in the company, benefits supplementing the daily social security benefits may be paid.

Failure to declare a workplace accident is liable for a category 4 fine (amount page 85).

WORKPLACE ACCIDENT - CONSEQUENCES

At the end of the suspension, the employee must be returned to his/her role or a similar job, unless he/she is unfit to do so.

A back-to-work medical is compulsory after an absence for an occupational accident of at least 30 days.

Employees absent due to a workplace accident acquire 2,5 working days' paid holiday per month.

An employee suffering a workplace accident (excluding travel to work) cannot be dismissed, except for misconduct or inability to maintain the contract for a reason not connected with the accident or illness.

In case of doubt as to whether the accident is occupational in nature, the employer can make justified arguments within 10 days of delivery of the declaration of workplace accident.

Ask us, for sick leave for more than 30 consecutive days, a liaison meeting may be organised during the sick leave to facilitate the employee's return to work.

If an employee is unable to take all or part of the leave he or she has acquire, during the leave period, due to a non-occupational illness or accident, he or she is entitled to a carry-over period of 15 months in order to be able to use it.

27 MATERNITY, PATERNITY AND OTHER FAMILY LEAVES

What you need to know :

Employees have a number of rights in terms of maternity or paternity leave.

Other leave related to family events is also laid down by the French Employment Code.

MATERNITY

Pregnant employees are entitled to maternity leave, with no length of service conditions, which includes prenatal and postnatal leave. The length depends on the number of children. In the event of a single birth resulting in one or two children, the leave granted is 16 weeks (6 before and 10 after delivery). Maternity leave suspends the employment contract.

During maternity leave, the employee receives the daily social security benefits. The collective agreement may provide for the payment of a salary top-up by the employer.

The employee benefits from a number of protective guarantees : protection in terms of dismissal (during pregnancy and the 10 weeks after maternity leave), right to authorised absence (for compulsory medical examinations), guarantee of one pay review, entitlement to paid holidays on return from maternity leave.

After an absence for maternity leave, a back-to-work medical is compulsory. Employees are entitled to an appraisal on their return from maternity leave.

Employers may not terminate an employee's employment contract during the 10 weeks following a medically certified spontaneous termination of pregnancy between 14ème and 21ème weeks of amenorrhoea inclusive.

PATERNITY

The father can benefit from paternity leave. It is combined with the 3 days' birth leave.

Paternity leave is set at 25 calendar days (32 days for multiple births). Four days must be taken following the birth leave.

The remaining leave entitlement may be taken immediately afterwards or within 6 months, where applicable, by splitting the remaining leave into two periods of at least five days each.

Leave is extended if the child is hospitalised immediately after birth in a specialised treatment unit.

This leave is not paid by the employer, unless the collective agreement has more favourable provisions. It is eligible for daily social security benefits.

The employee must inform the employer one month before taking leave.

The employer can neither refuse it nor require it to be postponed.

For 10 weeks from the birth, employees cannot be dismissed, except for misconduct or inability to maintain the contract for a reason not connected with the birth.

The leave is treated as effective working time for the purpose of accruing paid holiday entitlement and determining rights connected to length of service.

Ask us, it's not just the child's father who can benefit from paternity leave or leave to look after a new child.

The employer will be prohibited from employing the employee during the 3-day birth leave and the 4-day paternity leave coming immediately after, i.e. a total period of 7 days.

PARENTAL EDUCATION LEAVE

Employees with 1 year's length of service can benefit from parental leave. The initial duration is 1 year maximum, which can be extended up to the child's 3rd birthday (or more in the event of multiple births) The employer cannot refuse this. Leave can be full-time or part-time. It is not paid by the employer.

At the end of the leave, the employee must be returned to his/her previous job or a similar job.

The employee continues to be entitled to all benefits acquired before the start of the leave.

Half of the period of full-time parental leave is taken into account for determining rights related to length of service (unless there is a more favourable provision).

LEAVE FOR FAMILY REASONS

Leave for family events : all employees can benefit from an exceptional authorised absence for family events (in working days) :

Employee's wedding or civil partnership	4 days
Wedding of a child	1 day
Birth / Adoption	3 days
Death of a child	12 or 14 days (children under 25)
Death of spouse, civil partner, parent, brother or sister	3 days
Announcement of the occurrence of a child disability or illness	5 days

Such leave is classed as actual paid work and must be taken at the time of the events in question.

Bereavement leave for a child : in the event of bereavement for a child under the age of 25, employees are given 8 days' leave, which can be taken within one year of the death. Daily social security maternity benefits are paid for this leave and a supplement from the employer to ensure the salary is fully maintained.

Leave for sick child : all employees whose dependent child under the age of 16 is ill or has suffered an accident can benefit from 3 to 5 days' leave.Such leave is not paid.

Parental leave for a child requiring constant care : all employees, whose dependent child is suffering from an illness or disability or has been the victim of a particularly serious accident requiring constant care, can benefit from leave of up to 310 working days maximum, over a maximum period of 3 years (renewal subject to conditions).

Such leave is not paid by the employer. The employee may receive daily benefits for such leave.

Employers may not terminate employees' contracts of employment during parental leave.

Carer leave : all employees who want to care for a relative with a disability or loss of autonomy can benefit from leave for a period of time determined by collective agreement up to a maximum of 1 year, including renewals. Such leave is not paid by the employer. The employee can receive the daily carer allowance.

Family support leave : all employees wishing to provide end-of-life support to a relative can benefit from leave for a period of time determined by collective agreement or failing this for a period of 3 months (renewable once). Such leave is not paid. The employee may receive a daily benefit for such leave.

A company agreement, or a sector agreement, can set longer durations of leave for family events than the legal durations. However, a company agreement may be less favourable than the collective agreement.

28 PAID HOLIDAYS

What you need to know :

All employers are required to give annual leave and the employee is required to take it. Such leave cannot be replaced by a payment in lieu except in the case of termination of the employment contract.

HOLIDAY ENTITLEMENT

Holiday entitlement is calculated per reference period. A company agreement or otherwise a sector agreement can set the reference period (for example from 1 January to 31 December). Otherwise it is determined by law, from 1 June of year N to 31 May of year N+1 (except for a company that is affiliated to a paid holiday fund).

All employees are eligible for holidays with no length of service condition.

Breaches of the legislation and regulations on paid holiday are liable for a category 5 fine (amount page 85).

EARNING HOLIDAY

All employees, regardless of their working hours, earn 2.5 working days of paid leave per working month (i.e. 30 working days per year) or 2.08 working days per working month (i.e. 25 working days per year).

A company agreement or sector agreement may increase the duration of such leave, for example, depending on length of service.

Certain absences are classed as worked periods for earning holidays (maternity leave, time off in lieu, paid holidays of previous year...).

Check the provisions of your collective agreement regarding absences that can be classed as periods worked.

HOLIDAY PERIODS

These are set by company agreement or otherwise by sector agreement. Failing this, they are set by the employer, after consulting the social and economic committee.

In all cases, they come within the period from 1 May to 31 October.

A main holiday of at least 2 consecutive weeks and a maximum of 4 consecutive weeks must be taken during this period.

The holiday period is notified to employees at least 2 months prior to starting.

Ask us : the employer may impose a period of time during which the company is closed.

TAKING HOLIDAYS

Holidays must be taken every year. Neither the employer nor the employee can ask for them to be carried forward to the next year.

Paid holidays can be taken from the date of hiring.

The employer must ensure that employees take their holidays.

Ask us : in certain cases, possibilities for carrying holiday forward are stipulated by law (maternity, paternity, parental education leave, illness, workplace accidents).

ORDER FOR TAKING HOLIDAYS

The order for taking holidays is set by the company agreement or otherwise by the sector agreement or it is fixed by the employer, after consulting the social and economic committee.

It must take into account family circumstances.

The order for taking holidays is notified to employees at least 1 month in advance.

The employer and the employee must follow the order and dates of holidays that have been determined. Holiday dates cannot be changed less than one month before.

SPLITTING HOLIDAYS

Days off (excluding the 5th week) taken outside the main period (1 May to 31 October) are eligible for additional days off. A company agreement or otherwise a sector agreement can determine the terms under which holidays are split up.

Ask us about how the splitting up of paid holidays is applied and the conditions for waiving this right, by the employee.

COUNTING HOLIDAYS

The first working day of holidays is the first day when the person should have been working.

The last working day included in the period of absence counts as a holiday, even if it corresponds to a day not usually worked.

Ask us : a number of events have an impact on paid holidays.

HOLIDAYS AND SICKNESS

The law adapting to European Union law, which came into force on 24 April 2024, has changed French law on paid holidays.

From now on, employees suffering an accident at work or occupational illness will earn 2.5 working days of paid leave for the entire duration of their absence from work, even if this exceeds 12 months. Employees on non-occupational sick leave are entitled to 2 working days of paid leave per month of sick leave (up to a maximum of 24 working days per entitlement period).

Within one month of returning to work, the employer must inform the employee of the number of days of leave available and the date up to which these days may be taken. Leave that could not be taken due to illness or accident is carried forward for 15 months so that it can be used. This period does not begin until the date on which the employer informs the employee, after he has returned to work, of his entitlement to leave (except in the specific case of long-term sick leave). At the end of this period, the leave is definitively lost.

Ask us how the retroactive application of the measures to 1 December 2009, provided for in the law, must be applied.

PAYMENT OF HOLIDAYS

Compensation for paid holidays is equal to one tenth of the total pay received by the employee during the reference period.

It cannot be less than the pay the employee would have received if he/she had worked during his/her leave period.

Make sure that the payslip shows the dates of holidays and the amount of the corresponding payment.

Ask us, it might be recommended for your company to set up a holiday request system.

29 PUBLIC HOLIDAYS

What you need to know :

The French Employment Code provides for 11 public holidays. With some exceptions, only 1 May is a compulsory day off, the other public holidays can be worked.

Pay on public holidays will differ according to the specific situation. Public holidays will also have an impact on other events related to the performance of the employment contract.

STATUTORY PUBLIC HOLIDAYS

The French Employment Code provides for 11 statutory public holidays :

- 1 January, Easter Monday, 1 May, 8 May, Ascension Thursday, Whit Monday, 14 July, 15 August, 1 November, 11 November and 25 December.

In the Haut-Rhin, Bas-Rhin and Moselle departments, there is also 26 December and Good Friday in areas with a protestant temple or mixed church.

Note that 1 May is a special public holiday (see next page).

TIME OFF ON PUBLIC HOLIDAYS

Ordinary public holidays are not necessarily non-worked.

A company agreement or otherwise a sector agreement may determine non-worked public holidays (a company agreement may be less favourable than a sector agreement in this area).

If there is no collective agreement, the employer determines this list.

Public holidays must be taken as time off for people under the age of 18 and in the Haut-Rhin, Bas-Rhin and Moselle departments, (with some exceptions).

It is not permitted to recover hours lost owing to a non-worked public holiday.

When a public holiday falls on a Sunday or the weekly day off or a non-worked week day, the employer is not required to give its staff a day off the following or previous day, unless there are more favourable provisions in the collective agreement.

The company may arrange a link day prior to or after a public holiday. This practice is not governed by any regulations. Such link days can be recovered.

Ask us about the sectors and conditions under which young people under the age of 18 can work on a public holiday.

PAYMENT FOR PUBLIC HOLIDAYS

If the public holiday is non-worked, there is no loss of salary (basic salary and additional salary payments) for employees who have been working for the company for at least three months (including for seasonal workers).

If the public holiday is worked, employees do not benefit from any additional pay, unless there are more avourable provisions. However, if the statutory working hours are exceeded, employees benefit from extra pay for overtime.

Hours recovered for a link day are normal working hours worked at a later date ; they are paid at the normal rate without an increase.

There is no maintenance of salary for non-worked public holidays for home workers and temporary workers.

THE SPECIAL CASE OF 1 MAY

With some exceptions, the 1 May is a compulsory day off for all employees and there is no loss of salary. The basic salary and all additional amounts must be maintained (overtime, variable part of salary, bonuses and so on).

Working on 1 May is only possible for businesses and services that have to continue operating.

- Employees working on 1 May are entitled, in addition to their usual salary, to an allowance equivalent to this salary,
- Collective agreements may also provide for a day-off in lieu.

Failure to comply with the obligations relating to 1 May is penalised by a category 4 fine (amount page 85), times by the number of employees involved).

PUBLIC HOLIDAYS AND PAID HOLIDAYS

When a public holiday falls during paid leave :

- If it is a working day that is not worked in the company, it is not taken into account as paid leave,
- If it is a working day worked in the company, it is counted as paid holiday.

Ask us about the impact of a public holiday if paid leave is calculated in working days.

SOLIDARITY DAY (« JOURNÉE DE SOLIDARITÉ »)

The solidarity day was introduced to fund initiatives aimed at promoting the autonomy of elderly or disabled persons.

It is an additional day of unpaid work for employees.

The solidarity day can be scheduled on :

- A public holiday, previously non-worked, other than 1 May,
- Or according to any other method by which the 7 hours previously not worked can be worked.

The terms applicable to working on the solidarity day are determined by company agreement or otherwise by sector agreement. If there is no collective agreement, they are determined by the employer, after consulting the social and economic committee, if there is one.

30 PROFESSIONAL DEVELOPMENT

What you need to know :

All companies, regardless of their size, are required to offer their employees training and help fund professional development.

COMPANY'S TRAINING OBLIGATION

Employers must ensure that their employees are suited to their post. They ensure their continued capacity to perform a specific role, given changes in roles, technologies and organisations. They can propose training that helps develop skills and provide access to different levels of professional qualification.

All the company's training initiatives are included in its skills development plan. Employees attending training are deemed to be performing their employment contract.

Define your training strategy : priorities, company's needs, employees' aspirations...

FUNDING PROFESSIONAL DEVELOPMENT

Companies participate in professional development via the direct funding of training initiatives and the payment of a contribution. Employers with less than 11 employees pay a minimum contribution of 0.55 % of their payroll to fund continuing professional development. This contribution is 1 % of payroll for employers of 11 employees and more. Since 1 January 2020, passing the threshold of 11 employees only increases the contribution rate after 5 years.

Companies with less than 50 employees can obtain funding from skills agencies to implement their competency development plan.

Since 1 January 2022, the contribution for professional development is collected by URSSAF [social security contribution collection agency] on behalf of France Compétences.

CAREER & TRAINING REVIEW

Every 2 years, the employer has to arrange a career and training review with each employee to assess their career progression prospects, particularly in terms of qualifications and employment. A written report is drafted.

Every 6 years, this review is used as a summary of the employee's professional development.

The employer must also offer employees the chance to have a career review when returning from certain types of leave (maternity, long illness, parental leave...). In the event of a long absence, the review can be carried out early at the employee's initiative.

The career and training review is not the same as the appraisal interview. However, it is possible to hold the appraisal interview and the career and training review on the same date, subject to the following two conditions : the employer must not raise any issues relating to the employee's appraisal during the career and training review and must ensure that two separate reports are drawn up.

In companies with up to 50 employees, the employer must top up the personal training account by € 3,000 if it fails to fulfil its obligation to perform regular career reviews.

PERSONAL TRAINING ACCOUNT

Everyone is entitled to a personal training account (CPF) when they start working life. Each person has their own individual account which they retain when they change employer or are unemployed. It ends upon retirement.

Employees are free to use their CPF to complete qualification-based training. The law defines the training programmes eligible for the CPF.

For an employee with working hours more than or equal to half the statutory working hours over the whole year, the CPF is credited with € 500 per year, up to a limit of € 5,000 ; for other employees, the amount is on a pro rata basis according to the hours worked.

The CPF is managed technically and financially by the Caisse des dépôts et consigations, which will cover the costs of training completed by employees.

However, the person holding an individual account must contribute to financing the training from now on.

A digital application dedicated to the CPF can be used by employees to check their entitlement. They can enrol and pay for training.

Ask us : some employees can benefit from an increase in their entitlements credited to the CPF.

NOTIFICATION OF STAFF REPRESENTATIVES

In companies with at least 50 employees, every year, the social and economic committee must be informed and consulted on the professional development strategy and the skills development plan as well as the implementation of training & career reviews.

RETRAINING CPF

The retraining CPF is a specific way of using the CPF which allows employees to complete certifying training with the aim of changing jobs.

It concerns employees with a length of service of at least 24 months, consecutive or not, 12 months of which in the company, regardless of the type of employment contracts.

Employees must submit a written request to go on a training course. The employer cannot object if the employee meets the conditions but can postpone the date.

The employee must have their retraining plan validated by the « Commission paritaire interprofessionnelle régionale » (CPIR-ATpro) which handles the CPF (training costs, remuneration, professional expenses, etc.).

The employee's salary is paid monthly by the employer, which is then reimbursed by the CPIR [regional interbranch joint committee]. Advances are possible in companies with less than 50 employees.

Ask us : for certain employees no length of service is required.

31 PREVENTION OF OCCUPATIONAL HAZARDS

What you need to know :

Employers are required to take all necessary measures to ensure the safety of employees and protect their physical and mental well-being ; failing that, they might be found criminally and/or civilly liable in the event of a workplace accident or occupational illness.

They must therefore implement safety, awareness and training measures and put in place an appropriate organisation and methods to prevent occupational hazards.

RISK ASSESSMENT

Risk assessment is about identifying hazards affecting the health and safety of workers in all aspects related to the company's business : choice of manufacturing processes, work equipment, layout of work premises...

The results of the assessment must be recorded in the « risk assessment document » and may, where necessary, lead to the implementation of specific safety measures. (refer to Fact sheet 32)

A risk assessment must take into account how the impact of exposure to the hazards concerned differs according to gender.

INFORMATION AND TRAINING

The employer is required to organise and provide information to employees on health and safety risks as well as the measures taken to mitigate them. This information is provided when the employee is hired and whenever necessary.

The employer must also inform employees of the risks the products or manufacturing processes used may have on public health or the environment. Employees have a specific right to report such risks. Such reports are included in a special register.

The prevention passport lists the certificates and diplomas gained by the employee after taking training on occupational health and safety.

SAFETY MANAGER

All employers must appoint one or more competent employees who assume responsibility for the company's occupational health and safety activities.

He/she is entitled to at least 5 days of training on health in the workplace.

If the company does not have the resources internally, it can call on outside agencies (DREETS, CARSAT, ANACT, OPPBTP...).

The appointment of a « safety officer » does not release the employer from its responsibility in relation to safety in the company.

OCCUPATIONAL SAFETY ACCOUNT

All employers must monitor employees exposed to certain « hardship » risk factors over the thresholds defined by the applicable legal clauses.

The risk factors to be monitored are : night work, activities carried out in a high-pressure environment, alternating shift work, repetitive work subject to short time constraints, extreme temperatures and noise. The exposure thresholds are assessed according to intensity and duration criteria calculated over the year.

The employee's occupational safety account is credited with points on the basis of the employer's statements via the DSN. This account allows the employee to fund training, a switch to part-time, professional retraining or early retirement.

The occupational safety account is funded and managed by the workplace accidents and occupational illnesses branch of the French National Health system.

Ask us about the methods for assessing « hardship » risk factors. There are sector-based repositories help identify exposed posts.

Companies with at least 50 employees of which at least 25 % are exposed to occupational health risk factors or have a certain rate of work place accidents/occupational illnesses, must sign a company agreement relating to the prevention of « hardship » risks.

Otherwise they are subject to a penalty.

WORKPLACE FIRST AID

In consultation with occupational health, the employer must organise a system to provide emergency care to injured or sick employees. This involves in particular : putting procedures into place which are to be followed in an emergency until emergency services arrive, equipping work premises with first aid equipment, the presence of an employee trained in first aid in workshops where hazardous work is carried out.

MEDICALS

The organisation of medicals is part of the employer's safety obligations.

- For new employees : initial medical or fitness for work examination for employee assigned to a position with particular risks.
- During a contract : medicals carried out at intervals set by occupational health.
- Back-to-work medical after maternity leave or an absence due to occupational illness, an absence of at least 30 days when this is due to an accident at work or an absence of at least 60 days due to a non-occupational illness. An employee can only return to work after a period of suspension after the back-to-work medical.
- Mid-career medical visit : it must be conducted by the occupational health doctor during the calendar year in which the employee turns 45, or at any time set by the sector agreement.
- End-of-career medical visits for employees benefiting from increased medical screening : to be conducted by the occupational health doctor as soon as possible after the end of exposure to hazards in the workplace, if this exposure stopped before the end of career, or otherwise before retirement.

SANCTIONS

The employer has a duty to ensure the safety of its employees.

This obligation also applies in relation to psychological or sexual harassment, physical or psychological abuse and discrimination.

If a risk is established or occurs, the employer assumes liability unless it demonstrates that it has taken necessary and sufficient preventive measures to avoid it.

Any employee can claim the termination of his/her employment contract when the employer has not fulfilled its safety obligations, such claim then having the effects of unfair dismissal.

Breaches of occupational health and safety rules are recorded by the employment inspectorate and criminally sanctioned.

32 OCCUPATIONAL RISK ASSESSMENT DOCUMENT

What you need to know :

All employers must assess health and safety risks for employees in the company. The results of this assessment are recorded in the occupational risk assessment document.

PURPOSE OF THE OCCUPATIONAL RISK ASSESSMENT DOCUMENT

The occupational risk assessment document is compulsory in all companies regardless of their size or business activities.

It includes a list of occupational risks to which the employees are exposed in each work unit and ensures collective tracking of such exposure.

It contains the identification of hazards and risk assessment.

It acts as the starting point for defining risk prevention and employee protection initiatives.

Ask us about the specific details which must be included as part of the assessment of hardship risk factors.

RISK ASSESSMENT

A risk assessment involves identifying hazards affecting all aspects of health and safety of employees linked to the company's business activities : choice of manufacturing processes, work equipment, layout of work premises and so on.

The employer must involve the social and economic committee in the risk assessment, and drawing up and updating of the occupational risk assessment document. The company's health and safety advisor, and workplace prevention and health agencies also contribute to the risk assessment.

The employer may also use external stakeholders specializing in occupational risks (INRS, OPPBTP, ANACT, etc.).

PREVENTION INITIATIVES

The employer must define prevention initiatives based on the results of the risk assessment. In companies with less than 50 employees, the list of prevention initiatives is recorded in the occupational risk assessment document. In companies with at least 50 employees, they are recorded in an annual occupational risk prevention and improvement of working conditions programme.

Ask us about the content of the annual risk prevention programme.

UPDATING THE OCCUPATIONAL RISK ASSESSMENT DOCUMENT

The occupational risk assessment document must be updated annually in companies with at least 11 employees.

Regardless of the size of the company, it must also be updated when any important decision is taken making amendments to health and safety conditions at work and when additional information regarding risk assessment is brought to the employer's attention.

Each updated version of the occupational risk assessment document is submitted to the workplace prevention and safety agency with remit for the employer.

The list of prevention initiatives is also updated every time the occupational risk assessment document is updated.

AVAILABILITY OF THE OCCUPATIONAL RISK ASSESSMENT DOCUMENT

The occupational risk assessment document is made available to employees and former employees in the versions in force during their employment with the company.

It is also made available to the social and economic committee, the workplace prevention and safety agency, employment inspectorate, social security prevention agencies, and health and safety professional organisations.

Ask us : a notice stating how to access the occupational risk assessment document must be displayed in the company.

Failure to make the occupational risk assessment document available to the social and economic committee constitutes the offence of obstruction which is punishable by a fine of € 7,500.

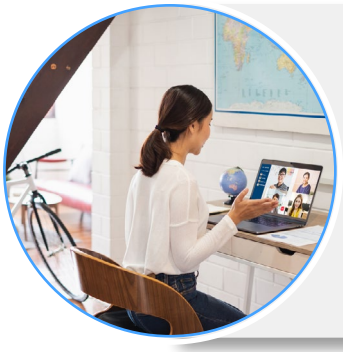
KEEPING THE OCCUPATIONAL RISK ASSESSMENT DOCUMENT

Successive versions of the occupational risk assessment document must be kept on file for at least 40 years.

At present, the occupational risk assessment document may be drawn up in hard copy or digital format. It was planned that the occupational risk assessment document and its updates would be filed electronically on a dedicated and secure digital portal by 1 July 2024 at the latest. This system has not yet been implemented.

In the event of failure to draw up or update an occupational risk assessment document, the employer may be liable for the fine provided for category 5 offences (amount page 85). The employer may also be ordered to pay damages to an employee who suffered a loss as a result.

33 REMOTE WORKING



What you need to know :

Remote working allows employees to work outside company premises using computing and communication tools.

This form of working can be arranged when the employee is hired or subsequently, in accordance with certain rules. Remote working employees benefit from specific guarantees.

DEFINITION

Remote working is a way of organising work in which work that would ordinarily be carried out in the employer's premises is voluntarily carried out by an employee outside said premises using computing and communication tools.

Remote working may be regular, for all or part of the week, or occasional. It is voluntary and reversible for the employee and the employer.

Teleworking is governed by the French Employment Code, the national interprofessional agreement of 19 July 2005 which is compulsory for employees in the professional sector represented by the Medef, CGPME or by the national interprofessional agreement of 26 November 2020, extended on 2 April 2021.

IMPLEMENTATION

Remote working is implemented :

- Under the terms of a collective agreement, or
- Under the terms of a policy developed by the employer after consulting the social and economic committee, if one exists.

In the absence of a policy or collective agreement, when the employee and the employer agree to use remote working, they formalise their agreement by any means, a written document being recommended.

Drafting a clause in the employment contract or an addendum to the contract is no longer required for remote working.

The occupational doctor may recommend remote working as a means of redeploying an employee who has been declared unfit for work. If remote working is compatible with the employee's duties, the employer cannot rule it out, even if the company does not practise remote working.

ORGANISATION OF WORK

The collective agreement or policy established by the employer stipulates :

- The conditions of switching to and stopping remote working,
- The terms under which the employee accepts the conditions of remote working,
- The terms under which working hours are monitored or workload regulated,
- The determination of the time periods during which the employer can usually contact the remote working employee,
- The terms under which disabled workers, pregnant employees and career employees can access remote working.

Ask us about the clauses of the agreement or the policy best suited to your company, particularly those relating to the reimbursement of costs arising from remote working.

EMPLOYER OBLIGATIONS

An employer who does not allow an employee to benefit from remote working when he/she is in an eligible post (under the conditions stipulated by a collective agreement or policy) must provide reasons for this decision. The reasons must be objective and non-discriminatory based on considerations relating to the company's interests.

The employer informs the employee of any restriction on the use of computing equipment or tools and the penalties applicable in the event of failure to respect these restrictions. It also informs employees about data protection measures. A remote working safety policy may be drawn up.

The workload of the remote worker must allow them to respect the legislation on working hours. The employer must organise an annual review relating in particular to the employee's working conditions and work load.

The employer shall monitor compliance with the provisions relating to health and safety at work for remote workers.

An accident occurring in the remote working location while the remote worker is performing his/her work is deemed to be a workplace accident.

STATUS OF REMOTE WORKER

Remote workers are employees of the company. They therefore benefit from the same individual and collective rights as all employees.

Remote workers have priority for holding or resuming a post without remote working that matches their qualifications and professional skills. Their employer is required to inform them of the availability of any post of this kind.

Refusal to accept a remote worker post does not constitute grounds for terminating the employment contract.

The employee's working hours are the same whether on-site or remote working. The provisions relating to maximum daily hours, maximum weekly hours, time off, breaks and counting working hours and the right to disconnect apply as well as those concerning employees under a fixed working time agreement.

The remote worker must benefit from meal vouchers under the same conditions as the other employees in the company.

In general, the company must reimburse expenses incurred by the employee for the purposes of his/her work in the company's interest. The authorities have identified three categories of business expenses in the scope of remote work which are excluded from the social security contribution base : fixed and variable expenses linked to use of a private room for professional purposes, expenses linked to adapting a specific room, computer equipment expenses, connection and miscellaneous supplies.

Calculation of the actual value is carried out based on invoices and receipts, but the authorities also allow the payment of a set amount, which it has fixed based on the number of days of remote work.

In the event of regular teleworking, an adaptation period may be arranged.

USE OF REMOTE WORKING IN THE EVENT OF FORCE MAJEURE

In exceptional circumstances, particularly in the event of the threat of an epidemic, or in the event of force majeure, the use of remote working can be considered a necessary adjustment of the job in order to enable the continuity of the company's business and ensure the protection of employees.

In this case, remote working may be imposed.

Ask us, it is important to take into account teleworking in the occupational risk assessment.

Some employees may wish to adopt remote working in order to achieve a better work/life balance. It can be a factor of motivation and appeal for employees.

34 WORKING ABROAD

What you need to know :

When an employer based in France decides to send an employee on an assignment abroad, this has consequences on the working relationship as well as the social security system.

In particular, it has to be determined if the assignment will be in the form of a posting or an expatriation. These two concepts are not defined by the French employment code, although posting is identified under social security law.

APPLICABLE EMPLOYMENT LAW

Irrespective of the length of the assignment abroad, the employer and the employee can, in principle, agree on what law is applicable to the employment contract during the period of mobility : French law, the law of the host country or either one according to certain points of the employment contract. The principle of freedom of choice of applicable law includes a limit relating to the mandatory provisions of the host country's « public policy laws ».

If no choice is made, the employment contract is in principle governed by the law of the country where the employee usually works.

In France, the rules relating to pay, working hours and holidays are considered to be public policy laws.

CONSEQUENCES ON THE EMPLOYMENT CONTRACT

When the employee works abroad, his/her employment contract must be adapted to this situation. Certain compulsory information relating to working conditions abroad must be mentioned.

Sending an employee abroad when his/her employment contract does not include a mobility clause constitutes a modification of the employment contract, requiring the prior agreement of the employee. An addendum to the employment contract will need to be drafted.

When an employee who normally works in France is called upon to work abroad for more than four consecutive weeks, the French Labour Code provides the minimum information that must be sent to him prior to departure.

In principle, French collective agreements are not applicable to employment contracts performed abroad.

However, a collective agreement can include specific provisions for employees working abroad.

The employment contract can also include certain provisions of the collective agreement.

If a local employment contract is signed, it will then be necessary to organise what will happen with the initial employment contract signed in France.

Ask us about the clauses to be included in an international employment contract.

The employer must ensure that the employee has the visas and/or work permits required by the legislation of the employing country.

END OF ASSIGNMENT ABROAD

The assignment abroad can end for different reasons : expiry of stated term, termination of contract during assignment by the employer or the employee.

When an employee employed by a parent company based in France has been loaned to a foreign subsidiary, the parent company must repatriate said employee if laid off by the subsidiary and find him/her a new job compatible with his/her previous duties.

Collective agreements or the employment contract generally stipulate the conditions under which employees working abroad are repatriated and reintegrated at the end of their assignment.

SOCIAL SECURITY PROTECTION OF POSTED EMPLOYEE

For social security purposes, an employee is posted when he/she performs a short-term assignment abroad while remaining under the authority of his/her French employer. In this case, the original social security legislation is maintained.

- If the employee is posted within the European Union (EU), the European Economic Area (EEA) or Switzerland, he/she remains affiliated to the French social security system, provided that the posting does not exceed 2 years. The employee also remains affiliated to the unemployment scheme and Agirc-Arrco supplementary pension plan. The employer must continue to pay social security contributions in France on all of the salary received.
- If the employee is posted to a country outside the EU, EEA and Switzerland but one that has signed a bilateral social security agreement with France, he/she remains affiliated to French social security during the maximum terms determined by said agreements. There are no contributions to be paid in the host country.
- In other cases, French social security legislation is applicable to the posted employee for a maximum period of 3 years (renewable once) when the employer undertakes to pay the French contributions. The social security contributions of the host country must also be paid if required by local legislation.

Since January 2022, the online « ILASS - Instruction de la Législation Applicable à la Sécurité Sociale » service, managed by URSSAF [social security contribution collection agency], automates examination and issue of A1 certificates, bilateral certificates and certificates of continued French social security coverage for other countries.

SOCIAL SECURITY PROTECTION OF EXPATRIATED EMPLOYEE

When an employer based in France sends an employee abroad under conditions not classed as a posting (see above), the employee is an expatriate in the sense of social security.

He/she then ceases to be covered by the French social security system and is covered by the system of the country of employment in which the contributions will be paid. If he/she wishes to improve his/her social security entitlements, the employee can voluntarily join the social security for French people abroad (CFE).

The French company must register its employees expatriated outside the EU, the EEA and Switzerland with the French employment agency. In other cases, the unemployment system will be that of the member state where the work is carried out.

Concerning pensions, the expatriated employee can continue to be affiliated to Agirc-Arrco under the terms of a territorial extension.

The expatriated employee ceases to benefit from the company's employee benefits scheme. Certain collective agreements may impose specific coverage.

Ask us : if the employee works in several EU or EEA states or in Switzerland, the employee is considered, for social security, to be performing all of his/her activity on the territory of a single member state, the determination of which depends on a number of criteria.

35 TERMINATION OF PERMANENT EMPLOYMENT CONTRACT

What you need to know :

There are various conditions under which an employment contract can be terminated, either by the employee or by the employer.

Each mode of termination is subject to specific rules.

RESIGNATION

Termination at the initiative of the employee. This does not have to be in any specific form but must express a genuine and unequivocal intention on the part of the employee. Otherwise, it could be re-classed as dismissal. In practice, it is consequently recommended to ask the employee to confirm his/her resignation in writing.

Resignation does not have to be accepted or refused by the employer.

The date of resignation marks the starting point of the notice period.

Ask us : an employee is now presumed to have resigned in the event of voluntary abandonment of his/her job and if he/she does not return to work after formal notice issued by the employer asking him/her to justify his/her absence and return to his/her job within a minimum time frame.

DISMISSAL

This is initiated by the employer and must be based on real and justified reasons. It may include :

- Dismissal for personal reasons based on a cause relating to the employee, whether or not this is wrongful,
- Lay-off for reasons not inherent in employee but justified by the company's position. Lay-offs can be individual or collective.

Whatever the reason for dismissal or layoff, the employer must follow a strict procedure, including : inviting the employee to a preliminary meeting and an interview and the delivery of a legal letter.

The date of delivery of the registered letter notifying termination of employment marks the start of the notice period. The employer can decide to release the employee from all or part of his/her notice. But it must then maintain the salary the employee would have received if he/she had worked during this period.

After such termination, the employee will receive the severance pay stipulated by the applicable legislation or collective agreement if it is more favourable. Subject to a minimum length of services of 8 months, the statutory severance pay is equal to a minimum of a 1/4 of a month's salary per year of service for the first 10 years and a 1/3 of a month's of salary per year of service after that.

In the event of a dispute, a settlement agreement may be signed.

Unjustified grounds for termination may result in payment of significant damages, noting that the grounds can now be indicated after the notice of dismissal.

N.B. : some employees have special protection from dismissal.

INDIVIDUAL TERMINATION BY AGREEMENT

Termination by agreement represents the joint wish of the employee and employer to terminate the contract.

It cannot be imposed by either party.

It requires a 3-step procedure :

- One or more meetings between the parties,
- The signing of an agreement between the employer and the employee which determines the conditions of the termination, including the pay due and date,
- The approval of the agreement by the Direction régionale de l'économie, de l'emploi, du travail et des solidarités (DREETS). Such approval allows the employee to benefit from unemployment insurance.

Ask us about how to implement individual termination by agreement.

The payment made for individual termination by agreement is at least equal to legal, or statutory severance pay in some cases. It is subject to an employer's contribution of 30 % payable on the exempt portion of social security contributions.

COLLECTIVE TERMINATION BY AGREEMENT

Collective termination by agreement is a mechanism of secured voluntary redundancies. It is implemented under the terms of a collective agreement validated by the administration. Only the employer can initiate this mode of termination.

The employee concerned gives his/her consent in writing.

The employer's acceptance of the employee's application results in the termination of the employment contract by mutual agreement.

The employee receives severance pay and is entitled to unemployment benefits.

Ask us about the content of the agreement on collective termination by agreement.

CONSTRUCTIVE DISMISSAL

The employee can claim constructive dismissal due to facts attributed to his/her employer.

If the facts are sufficiently serious, the termination has the effects of dismissal without due cause. Otherwise, it is deemed to be resignation.

There is a schedule of pay in the event of dismissal without due cause.

RETIREMENT/PENSIONING OFF

By employer : pensioning off.

By the employee : retirement (refer to Fact Sheet 36).

Ask us about the procedures and pay.

DOCUMENTS TO BE GIVEN TO THE EMPLOYEE WHEN THE EMPLOYMENT CONTRACT IS TERMINATED

A certificate of employment which mentions in particular the employee's right to the continuation of « health » cover and « employee benefits » he/she benefited from in his/her previous company.

A certificate for the employment agency witch is also sent via the DSN.

A full and final statement which must indicate in detail all the sums paid on termination. This can be challenged within 6 months after signing. After that, it represents full and final settlement by the employer for the sums mentioned.

An employee who has sustained a loss due to the late submission of the termination documents may claim damages.

36 RETIREMENT OR PENSIONING OFF

What you need to know :

Employment contracts are not automatically terminated when an employee reaches retirement age.

However, they can be terminated by the employer (pensioning-off) or the employee (retirement).

The conditions and consequences of these two types of termination are different.

PRINCIPLE OF PENSIONING-OFF

Pensioning-off is initiated by the employer.

It is only possible if the employee has reached the age from which he/she can automatically claim a full-rate retirement pension (namely age 67).

The employee can request a deferment until he/she is 70.

Pensioning off a protected employee requires the authorisation of the employment inspectorate.

THE PENSIONING-OFF PROCEDURE

Three months before the day on which the employee meets the age condition for benefiting from a full-rate retirement pension, the employer must ask the employee in writing whether he/she intends to leave the company voluntarily to receive his/her old age pension.

If the employee replies within one month stating that he/she does not intend to retire, the employer cannot pension off this employee during the year after the date of his/her birthday.

This procedure will be repeated every year until the employee's 69th birthday.

From the age of 70, the employer will have the option to pension off the employee without said employee being able to oppose this.

When the employer pensions off an employee, it must provide the notice required for redundancy or, if it is more favourable, the notice stipulated by the collective agreement.

If the pensioning off conditions are not fulfilled, the termination is classed as unfair dismissal.

COST OF PENSIONING-OFF

When the employer pensions off an employee, it must pay said employee a payment equivalent to :

- The statutory severance pay : 1/4 of a month per year oflength of service for the first 10 years, plus 1/3 of a month per year for the following years ;

or

- If more favourable, the payment stipulated by the collective agreement or the employment contract.

The pensioning-off payment is exempt from social security contributions and income tax up to a certain limit.

But the employer must make a contribution to URSSAF equal to 30 % of sums exempt from contributions.

PRINCIPLE OF RETIREMENT

Retirement is initiated by the employee. It is not a resignation but a specific mode of termination.

In principle, employees cannot retire before the age of 62 (age gradually increasing to age 64 as from 1 September 2023).

For the termination to be classed as retirement, the employee has to have submitted a pension claim, regardless of whether he/she is able to benefit from a full-rate retirement pension or not.

The employee must clearly and unequivocally express his/her desire to retire.

It is recommended to obtain written confirmation of the employee's decision to take retirement.

RETIREMENT PROCEDURE

An employee taking retirement must respect a specific notice period.

Either the statutory notice stipulated for termination of employment :

- 1 month for employees with between 6 months and less than 2 years length of service,
- 2 months if the employee has at least 2 years' length of service.

Or notice of termination or retirement stipulated by the collective agreement if it is shorter.

COST OF RETIREMENT

If a collective agreement or the employment contract does not include more favourable provisions, an employee taking retirement is entitled to a payment determined by law of :

- 1/2 a month's reference salary after 10 years' length of service,
- 1 month after 15 years,
- 1 1/2 months after 20 years,
- 2 months after 30 years' length of service.

The payment is fully liable for social security contributions and income tax.

Any contractual provision providing for automatic termination of an employee's employment contract due to his/her age or due to the fact that he/she is entitled to benefit from a retirement pension is invalid.

END-OF-CAREER MEDICAL VISIT

It applies to employees who have benefited from increased medical screening.

It is conducted by the occupational health doctor as soon as possible after the end of the employee's exposure to hazards in the workplace which justified increased medical screening, if this exposure stopped before the end of career, or otherwise before retirement.

This medical examination is aimed at establishing trackability and a record of exposure incurred by the employee. If the occupational health doctor records exposure to some hazardous risks, he/she will implement post-exposure or post-professional screening, in conjunction with the general practitioner.

The employer offers awareness initiatives on heart attack prevention and first aid to employees before retirement. These initiatives take place during normal working hours.

37 COMBINED EMPLOYMENT AND PENSION

What you need to know :

To receive their retirement pension, beneficiaries must stop working.

However there are possibilities for combining a pension and employment according to terms determined by the beneficiary's pension plan.

COMBINED EMPLOYMENT - PENSION MECHANISM

A retirement pension can be fully combined with income earned from resuming work if :

- The beneficiary has claimed his/her retirement pensions under all the basic and supplemental pension plans he/she was covered by,
- The beneficiary has reached the age required to automatically obtain a full rate pension (67 years) or the legal age if he/she can benefit from a full-rate pension (age 62 gradually increasing to age 64 as from 1 September 2023).

This scheme covers those receiving pensions under the general social security system, the self-employed workers system, the freelancers system and the system for agricultural employees (salaried or not).

For retirees who do not satisfy these conditions, combining employment and a pension is governed by special rules.

For some activities there are no conditions for combining with pension benefits, including : artistic activities, literary or scientific activities carried out on an ancillary basis, consultations provided occasionally, the duties of local elected representatives...

Since 1 September 2023, the resumption of activity under a retirement work combination creates new entitlements (basic and complementary scheme), provided in particular that a period of 6 months is observed in the event of resuming work with the same employer. The rights acquired are capped.

THE RULES FOR SALARIED EMPLOYEES IF THE CONDITIONS ARE NOT MET (SEE § 1)

In this case, when a retiree under the general system resumes paid work, he/she can combine his/her salary with his/her pensions (base and supplemental) provided that :

- The total of his/her new salary and pensions does not exceed the last salarie of work or, if this solution is more favourable to the beneficiary, 160 % of the minimum wage,
- If the beneficiary resumes work with his/her last employer, combining employment and pension is only possible if a period of 6 months has elapsed between the date of payment of the pension and the resumption of activity.

If the salary / pension limit is exceeded, the payment of the pension is reduced accordingly.

RESUMPTION OF A PAID ACTIVITY : FORMALITIES TO BE COMPLETED

Within a month after the date of resuming work, the beneficiary must provide the following to pension providers :

- A declaration certifying that he/she has started drawing all of his/her retirement pensions,
- Indicate the date of resumption of work as well as the name and address of the new employer, the amount and type of income received.

A new employment contract must be signed.

All social security contributions are due on the salary for the paid work that has been resumed.

Ask us about the documents to be provided to the pension providers.

RULES OF COMBINATION FOR NON-SALARIED EMPLOYEES IF THE CONDITIONS ARE NOT MET (SEE § 1)

In this case, combining employment and pension is possible under the following conditions :

- The continuation or resumption of work must not provide earnings exceeding half the annual social security limit otherwise the basic pension is reduced,
- For freelance work, continuing or resuming work is possible if the income made from this activity is less than the annual Social Security limit.

The work resumed can be carried out in the previous company.

Resuming or continuing work must be declared to the pension providers within a period of one month.

PHASED RETIREMENT

When an employee reaches the statutory retirement age less 2 years and provides proof of 150 quarters of pension contributions, he/she can draw a provisional pension while continuing part-time work.

The amount of the phased pension varies according to the extent of the part-time work, which must be between 40 % and 80 % of full-time working hours.

The employee continues to improve his/her final pension entitlement since he/she is making contributions for his/her paid work.

He/she has the option to make pension contributions on a full-time equivalent basis.

The progressive pension is available to insured persons covered by the general scheme for salaried employees (including employees under a fixed working days contract and corporate officers), agricultural employees, and non-salaried in the industrial, commercial, craft, liberal and agricultural professions.

Ask us about the methods of implementing this system.

Since 1 September 2023, the employer must justify its refusal to allow the employee to switch to part-time work in the scope of phased retirement, by the incompatibility of the working time requested by the employee with the company's economic activities. The employer's failure to reply within 2 months to the employee's request constitutes acceptance.

38 INTERNSHIPS IN A BUSINESS ENVIRONMENT

What you need to know :

Various legislation has been passed to better regulate internships and differentiate them from employment contracts.

Companies wanting to take students on internships must therefore ensure they comply with the various conditions and obligations stipulated by law in order to avoid the risk of the internship being reclassified as an employment contract, in particular.

INTERNSHIPS CONCERNED

An internship is a temporary period of time spent in a professional environment during which the student gains professional skills that put into practice what he or she is learning through his/her studies with a view to obtaining a degree or certification.

The internship must be part of a course of study.

The employer cannot take on an intern instead of hiring an employee under an employment contract, to : replace an employee in the event of absence, suspension of employment contract or termination ; perform regular duties related to a permanent job ; deal with a temporary increase in activity ; for seasonal employment.

A company with less than 20 employees cannot host more than 3 interns during the same calendar week. This maximum quota of interns is 15 % of the headcount in companies with 20 or more employees.

INTERNSHIP AGREEMENT

An internship agreement is compulsory. It must be signed between the host company, the intern and the teaching institution. It must also be signed by the student's tutor and the internship mentor.

A mentor can only supervise three interns.

The internship agreement must include a number of compulsory clauses.

If there is no agreement or the agreement is not properly drawn up, the internship may be reclassified as an employment contract.

DURATION OF INTERNSHIPS

An intern cannot do an internship of more than 6 months in the same company or organisation under one or more internships. The internship period is calculated on the basis of the actual time the intern spends in the host organisation.

Companies that host a series of interns in the same post under different internship agreements must allow a gap between internships of one third of the duration of the previous internship unless it was terminated by the intern.

The employer must include interns in a specific part of the employee register.

PAYMENT OF INTERN

A salary is paid for an internship if it is longer than 2 consecutive or even 2 non-consecutive months during the same school or university year in the same company or organisation.

The minimum amount of the salary is set by sector agreement or extended professional agreement, otherwise the hourly amount of the salary is set at 15 % of the social security hourly limit, i.e. € 4.35 per hour of work.

The host company must keep a record of the amount of time the intern spends in the company.

The salary is paid monthly according to hours actually worked. It is due from the 1st day of the 1st month of internship.

For internships of up to 2 consecutive months maximum, the payment of a salary is optional and is « negotiated » between the intern and the host company.

The intern benefits from meal vouchers and reimbursement of public transport costs under the same conditions as company employees.

He also benefits from the sustainable mobility allowance if it has been set up within the company.

SOCIAL SECURITY CONTRIBUTIONS ON SALARY PAID

Contributions are not due on sums paid to interns up to the minimum salary.

For this to apply, an internship agreement is an essential requirement.

For salaries over the threshold determined, social security contributions are only due on the portion over the threshold.

No contributions are due and no rights are established with regard to unemployment insurance and supplemental pensions for internships.

Income paid for Internships in a company are included in the basis for calculating the « Net social amount ».

If the intern is considered as a separate resource for the company, the URSSAF will base the contributions not on the salary paid, but on the contractual minimum the intern would have received as an employee.

STATUS OF INTERN

The intern is not an employee as defined by the French employment code. Nevertheless, certain provisions of the French employment code are applicable to the intern, particularly those regarding working hours, protection from psychological or sexual harassment, maternity or paternity leave...

The intern is in the company to learn and/or observe and therefore has no obligation to produce work like employees.

All interns are required to comply with the company's rules and regulations : hours, discipline, health and safety rules and so on.

Interns are not included in the company's workforce.

The company is required to deliver an internship certificate to all interns. This certificate mentions the length of the internship and, where applicable, the salary paid, as well as the procedure for validating the internship for pension purposes.

Ask us : special arrangements are applicable if an intern is hired at the end of the internship.

Tools URSSAF INSPECTION

What you need to know :

URSSAF inspection is designed to ensure that the declarations made by employers are accurate, but they are also a means of helping employers to confirm that their practices are compliant. URSSAF checks the base, rate and calculation of all the contributions it collects. Two types of inspection are possible : on-site inspections and documentary inspections.

INSPECTION NOTICE

At least 30 days before the actual start of the inspection operations, URSSAF must send a notice of inspection (except in the case of an inspection for concealed work). This notice mentions : the date of the inspection, the fact that the employer may be assisted by an advisor of his choice, the e-mail address at which the contributor's charter can be downloaded and a list of documents and information required for the inspection operations.

Unless otherwise specified, the notice applies to all of the audited entity's establishments.

Employers can ask the authorities to carry out an audit to validate or correct their practices. The right to an audit does not replace the social rescript procedure.

INSPECTION PERIOD

Social security contributions are time-barred after three years from the end of the calendar year in respect of which they are due (5 years in the case of concealed work). An audit carried out in 2024 may cover the current year and the years 2021, 2022 and 2023.

Checks may not be carried out again, for the same period, on points that have already been checked (except in the case of incomplete or inaccurate answers, fraud, concealed work or at the request of the judicial authorities).

Ask us, in some cases, the employer can rely on URSSAF's tacit agreement to a company practice.

INSPECTION DURATION

Inspections carried out in companies with fewer than 20 employees may not extend over a period of more than 3 months, between the actual start of the inspection and the date on which the letter of observations is sent. This limit does not apply when the employer belongs to a group with twenty or more employees.

At the express request of the employer or the collection agency, the 3-month period may be extended once.

Ask us, the time limit on inspections does not apply in certain situations (concealed work, obstruction of an inspection, etc.).

ON-SITE INSPECTION

In this case, the inspection takes place on the company's premises. The employer may suggest that the inspection take place at the premises of the third-party declarant (a chartered accountant, for example).

The employer must make available to the auditors any document and allow access to any data requested for the purposes of the audit. URSSAF has the right to obtain information and documents from a number of organisations. In addition, auditors are authorised to use documents and information obtained during the audit from any person belonging to the same group as the person they are auditing.

Specific provisions exist when the documents requested by the inspector are dematerialised and the inspection operations can be carried out using automated processing.

Inspection officers may question employees, but only on company premises, in order to obtain useful informations for the inspection.

Ask us, to alleviate the constraints associated with providing numerous supporting documents, the controller may suggest using verification methods based on sampling and extrapolation. The employer may object to these methods.

DOCUMENTARY INSPECTION

Under this procedure, inspections are carried out on URSSAF premises. This procedure only concerns employers with fewer than eleven employees.

The inspection notice specifies the documents to be sent and the deadline by which they must be made available (minimum 30 days). Documents may be submitted in paper or electronic form. Additional informations may be requested during the inspection.

If the requested information is not provided, or if further investigations are required to examine the documents, the inspection may continue on company premises.

INSPECTION END

At the end of his investigations, when observations with or without adjustment are envisaged, the controller must, before sending the letter of observations, suggest a meeting to the employer, in order to present the results of his analyses and the possible follow-up that he is preparing to give.

The inspector then sends the employer a « letter of observations », which must contain several information items, including the suggested adjustments, the method of calculating them and the resulting penalties. The letter of observations may also include observations for the future.

On receipt of the letter of observations, the employer has 30 days in which to make any comments or disagreements. With certain exceptions, the employer may request a 30-day extension to this period of consultation. The inspector is then required to respond to the employer's observations. This response marks the end of the adversarial period and does not open a new discussion.

In the event of adjustments, the employer receives a « formal notice » with the items to be paid. If there is a credit balance, this will be reimbursed within 1 month.

If the employer disputes the reassessment, he must refer the matter to URSSAF's out-of-court appeals commission (CRA) within 2 months.

Obstructing an inspection is punishable by a penalty of € 7,500 per employee, up to a maximum of 750,000 per employer.

Tools FAQ ON DEDUCTION AT SOURCE ON SALARIES

What you need to know :

The income tax deduction at source on salaries enables the employee to pay contemporaneous tax on collection of income.

WHAT ARE THE EMPLOYER'S OBLIGATIONS IN RELATION TO THE DEDUCTION AT SOURCE ON SALARIES ?

The employer has 4 obligations :

- To receive the rate of deduction at source for each employee sent each month by the « Direction Générale des Finances Publiques » (DGFiP) via the « déclaration sociale nominative » (DSN),
- To retain the deduction at source on the net salary to be paid to the employee for month M, by applying the rate to the net taxable salary,
- To declare, via the DSN, the amounts deducted for each employee,
- To pay the deductions at source for month M to the DGFiP on 5 or 15 of month M + 1 (based on the workforce).

The account used for paying the deduction at source must be registered on the employer's professional space on « impots.gouv ». The corresponding SEPA B2B mandate must be sent to the bank.

CAN THE EMPLOYER AMEND THE RATE SENT BY THE DGFIP ?

No, the employer must use the rate sent by the office. The employee must send any claims relating to his/her rate to the tax authority. If changed, a new rate will be sent to the employer via the DSN. The employer applies the most recent rate received. Each rate sent remains valid for 2 months.

WHAT DOES THE EMPLOYER HAVE TO DO WHEN HIRING A NEW EMPLOYEE ?

For a new hire, the non-personalised rate will be applied for the first salary payment since the employer will not have received the customised rate via DSN yet. However, in this case, the employer will be able to obtain its employee's personalised rate via a specific application, called TOPAZE or via the variable data priming signal (DSN), so it can be applied from the payment of the first salary. This procedure is optional for the employer.

WHAT SHOULD THE EMPLOYER DO IF THE DGFIP HAS NOT SENT THE RATE OF DEDUCTION AT SOURCE FOR ONE OF ITS EMPLOYEES ?

When the DGFiP has not sent the company the employee's personalised rate, the employer must nevertheless make the deduction at source on the salary paid using the non-personalised schedule of rates (« neutral rate ») defined each year in the finance act. This schedule is established on the basis of the income of a single person without dependants. The rate varies according to the employee's monthly net taxable income. This situation is applicable when the employee has opted for his/her rate not to be sent to his/her employer or if the employee has never submitted an income tax return in his/her own name.

For fixed-term contracts of 2 months or less, if the employer has to use the non-personalised rate, a specific rebate of 50 % of the net taxable minimum wage (€ 725 as of 1 January 2024) is applied to the base of the deduction at source.

SHOULD THE EMPLOYEE INFORM HIS/HER EMPLOYER IN CASE OF A CHANGE IN HIS/HER PERSONAL CIRCUMSTANCES DURING THE YEAR (MARRIAGE, DIVORCE, BIRTH…) ?

No, the employee must contact the tax services directly to inform them of the change. The tax office calculates the new rate of deduction and sends it to the employer via the DSN.

The updated rate is applied no later than the third month after the declaration of change.

ARE ALL SALARIES SUBJECT TO THE DEDUCTION AT SOURCE ?

Salaries on which income tax is due are subject to the deduction at source.

Therefore, exempt income is not subject to the deduction at source, for example : exempt overtime up to a limit of € 7,500, exempt apprentice salary up to an annual minimum wage…).

HOW DOES THE EMPLOYER INFORM THE EMPLOYEE OF THE DEDUCTION AT SOURCE MADE ?

Payslips must mention : the base, rate and amount of the deduction at source as well as the sum that would have been paid to the employee in the absence of the deduction at source.

HOW DOES THE EMPLOYER DEAL WITH THE DEDUCTION AT SOURCE IF THE EMPLOYEE IS ILL ?

If daily benefits are paid to the employee directly by the health insurance provider, then said provider makes the deduction at source.

If the employer advances the employee's daily benefits and is reimbursed by the health insurance provider (subrogation), the employer has to apply the deduction at source to the daily benefits when they are taxable. During the first 60 days of absence for a non-occupational illness, with no time limit for maternity leave or workplace accident (on 50 % of the taxable amount in case of accident at work/occupational illness).

WHAT ARE THE CONSEQUENCES FOR THE EMPLOYEE IF THE EMPLOYER FAILS TO PAY OVER THE DEDUCTION AT SOURCE ?

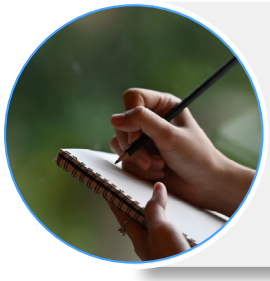
If the employer fails to pay the tax deducted on its employees' salaries to the tax office, it will be subject to proceedings and sanctions (penalty of 5 % + default interest in the case of late payment of 2 % per month, penalty of 80 % in case of deliberate retention…). The tax services will not claim against the employees since the deduction has already been made and they are not jointly and severally liable for paying the tax.

DOES THE EMPLOYER KNOW THE TAX PAYER'S OVERALL TAX POSITION ?

No, the only information sent to the collecting employer is the average rate of tax which does not reveal any specific information. The same rate can in fact correspond to very different situations.

Plus, the rate of the deduction at source of each employee is confidential. Employers who intentionally breach this obligation will be sanctioned.

Tools STAFF MANAGEMENT MEMO



What you need to know :

This is a quick reference guide to your key obligations as an employer based on the number of employees you have or events related to your staff : hiring, performance of employment contract, termination of contract.

For more information, refer to the corresponding fact sheets of this guide.

		All employers	From 11 employees	From 20 employees	From 50 employees
General obligations	Determination of collective agreement applicable	✔			
	Notices to be posted	✔			
	Compulsory registers to be set up (occupational risk assessment document)	✔			
	Health and safety obligations	✔			
	Election of social and economic committee		✔		
	Obligation to employ disabled workers			✔	
	Company rules and regulations				✔
	Implementation of employee profit-sharing				✔
	Publication of the occupational gender equality index				✔
	Implementation of an economic, social and environmental database (BDES)				✔

Hiring	Check the work permit of foreign employees
	Draft the notice of employment
	Draft the employment contract and get it signed by the employee
	Make requests for aid, prior to hiring
	Organise the preliminary medical or fitness for work medical
	Register the employee for the company's compulsory pension and benefit plans - Give the employee the policy guides
	Complete the staff register
	Follow up the end of the probation period and implement appropriate actions
	Ensure the employee has the necessary guides (collective agreements, employee benefits, employee savings, career & training review...)

Performance of contract	Generate the payslip and pay the salary (the payment of the salary by crossed cheque or bank transfer must be made to a bank account individually or jointly held by the employee)
	Organise and monitor working hours
	Organise paid holidays
	Manage and monitor business expenses
	Obtain the employee's written agreement to apply the specific fixed deduction for business expenses (specific to certain professions)
	Value benefits in kind
	Reimburse home/work public transport costs
	Follow up end of fixed-term contracts and implement appropriate actions
	Declare workplace accidents within 48 hours maximum
	Organise medicals for employees returning to work after illness, maternity or work-place accident
	Organise periodical medicals
	Organise career and training review

Termination of contract	If the employee resigns, make sure you have a signed « resignation letter »
	Implement the dismissal/redundancy or cancellation by agreement procedure
	Raise the non-compete clause if applicable
	Transfer benefits
	Take unsettled advances or instalments into account in the full and final settlement
	Give the employee the end-of-contract documents on the day he/she leaves
	Recover equipment made available to the employee
	De-register the employee from the company's benefit plans
	Update the staff register

N.B. : Maximum amounts of fines applicable in the event of breaches of employment legislation.

		Individuals	Legal entities
Category of fine	Category 1	€ 38	€ 190
	Category 2	€ 150	€ 750
	Category 3	€ 450	€ 2,250
	Category 4	€ 750	€ 3,750
	Category 5	€ 1,500	€ 7,500
	Category 5 (repeat offence)	€ 3,000	€ 15,000

Tools PERIODS FOR KEEPING EMPLOYMENT DOCUMENTS

What you need to know :

Any document issued or received by a company in performing its business must be kept for certain minimum periods set by law, but they can also be archived for longer.

Since the authorities can perform audits and the employee can bring industrial actions, it is important to be able to produce the necessary documents during the statutory limitation periods.

Type of document	Statutory time for keeping documents	Suggested time for keeping documents
Acknowledgement of receipt of notice of employment	Until the completion of the déclaration sociale nominative Art. R. 1221-8 of the French employment code	
Payslip (paper duplicate or digital version)	5 years Art. L. 3243-4 of the employment code	Unlimited
Individual statement of profit-sharing and incentives	20 years Art. D. 3313-11 and D. 3324-37 of the Employment Code Art. L. 312-20, Monetary and financial code	
Staff register	5 years from employee leaving Art. R. 1221-26 of the employment code	Unlimited
Employment contract, receipt of full and final settlement, letter of termination, termination by agreement	5 years after the expiry of the employment contract	20 years
Document relating to social security charges and salaries to be provided in the event of Urssaf audit	6 years Art. L. 243-16 of the social security code	10 years
Records of work days of employees under a fixed working days agreement	3 years Art. D. 3171-16 of the employment code	5 years
Records of employees' hours, on-call hours and compensation paid	1 year Art. D. 3171-16 of the employment code	5 years
Employment inspectorate observation or notice. Verification and con-trol of health, safety and working conditions. Declaration of workplace accident to the health insurance provider	5 years Art. D. 4711-3 of the employment code	
Occupational risk assessment document	40 years Art. L. 4121-3-1 of the employment code. The occupational risk assessment document must be kept in its successive versions.	

Tools USEFUL WEBSITES

What you need to know :

There are a number of key employment websites if you need information or are carrying out online procedures.

EMPLOYMENT CODE - COLLECTIVE AGREEMENTS

- legifrance.gouv.fr

MINISTRY OF EMPLOYMENT, WORK AND HEALTH (INFORMATION ON EMPLOYMENT LEGISLATION)

- travail-emploi.gouv.fr

SOCIAL SECURITY

- securite-sociale.fr
- ameli.fr
- lassuranceretraite.fr

PAYROLL CONTRIBUTIONS

- urssaf.fr
- francetravail.fr
- net-entreprises.fr
- agirc-arrco.fr

DEDUCTION AT SOURCE

- impots.gouv.fr

NOTICE OF EMPLOYMENT

- due.urssaf.fr

TRAINING

- alternance.emploi.gouv.fr
- moncompteformation.gouv.fr
- soltea.education.gouv.fr

OFFICIAL SOCIAL SECURITY NEWSLETTER

- boss.gouv.fr

TERMINATION BY AGREEMENT

- telerc.travail.gouv.fr

ELECTIONS OF STAFF REPRESENTATIVES

- elections-professionnelles.travail.gouv.fr

RISK PREVENTION

- compteprofessionnelprevention.fr
- inrs.fr
- anact.fr
- passeport-prevention.travail-emploi.gouv.fr

WORKING ABROAD

- cleiss.fr
- cfe.fr

ADMINISTRATIVES PROCEDURES

- portailpro.gouv.fr
- demarches-simplifiees.fr

PROFIT-SHARING

- mon-interessement.urssaf.fr

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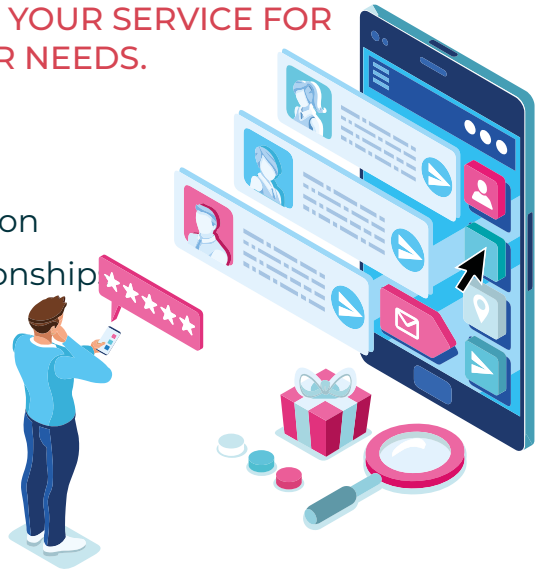

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85400 LUÇON
Tél. : 02 51 56 02 78

PARIS 16
2-4 rue Louis David
75116 Paris
Tél. : 01 43 79 70 08

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3 rue Marthe Pineau
17000 LA ROCHELLE

NANTES
3 chemin du Pressoir Chênaie
44100 NANTES
Tél. : 02 40 47 62 44

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86961 FUTUROSCOPE Cedex
Tél. : 05 49 49 49 10

HEADQUATERS : NIORT
53 rue des Marais- CS 18421
79024 NIORT
Tél. : 05 49 32 49 01

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