Employers' Employment guide 2019

creatis

PARIS - COURBEVOIE, La Défense - LEVALLOIS - LONGJUMEAU

www.creatisgroupe.com

Edition 2019

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Sheet 1

Hiring an employee

What you need to know :

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

Failure to do so exposes the employer to criminal sanctions for illegal work.

Sanction

Failure to complete the DPAE is subject to a penalty of 300 times the hourly rate of the guaranteed minimum (€1,086 as at 1/1/2019). A penalty for illegal work may also be applied.

Notice of hiring (DPAE)

A very important formality for employers is the notice of hiring, called the « *Déclaration préalable à l'embauche* », which must be sent to the URSSAF *[social security contribution collection agency]*, in principle electronically, before hiring any employees.

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

Employment of foreign employees

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

Information

Make sure during the interview with your future employee that you have all the information required to fulfil the pre-employment for formalities.

Advice

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

Drafting an employment contract

The employment contract determines the key elements of the contractual relationship between the employer and the employee. Its formal terms are regulated, in some cases.

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

Information

Ask yourself, before hiring, about possible funding (national, regions, employment agency...).

Registering the employee for pension and protection plans

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

Information

Check that employees are individually affiliated to collective contracts.

Employment medical examination

Since 1st January 2017, the pre-recruitment medical examination is replaced by :

- An information and prevention visit for employees not exposed to special risks. It must be carried out within 3 months from the effective start of job,
- A special pre-recruitment medical examination for employees assigned to a position in an environment where they may be exposed to special risks.

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

Advice

Ask us about specific cases and possible exemptions.

Official staff register

All employers are required to keep an official staff register in every establishment where employees are employed.

This register shall include compulsory information such as the identity details of employees, the start and end dates of their employment and the type of employment contract, in particular.

It must be updated whenever there is a change in the details to be mentioned.

Sanction

Failure to keep the official staff register is subject to a category 4 fine (amount p 77) per employee concerned.

Documents to be given to employees

Document including the information provided in the notice of hiring.

Guide on the collective agreements applicable.

Comprehensive guide on the coverage provided by the employee protection policy and the conditions under which it applies.

Booklet on the employee savings plans available within the company.

The employee must also be informed about his right to a professional interview every 2 years (or at an interval stipulated by collective agreement).

Sanction

Failure to provide this information as required may be financially detrimental to the employee and the employer may be liable accordingly.

Sheet 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 permit authorising them to perform paid work in France, and check the validity of this document. Foreign employees with proper legal status must benefit from the same rights as French employees.

Information

An employer wishing to hire a national from one of these States is only required to check the nationality of the candidate by the production of an appropriate identity .

EEA foreign national

No work permit is required for employment in France for the following countries :

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

Non-EU foreign national

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

- It must ensure that this foreign employee has a work permit enabling them to occupy the job being offered.

Or when the employer is bringing a foreign employee into the country who doesn't live in France :

- The employer must submit an application to bring in a foreign worker to the *direction régionale des entreprises, de la concurrence, de la consommation, du travail et de l'emploi* (DIRECCTE) *[regional department for companies, consumers, work & employment]*.

Advice

Ask us for the list and details of work permits.

Some residence permits automatically entail the right to work.

Checks to be carried out by the employer

It is not permitted to hire or employ a foreign national who does not have a work permit.

The employer must check :

- The nationality of the employee,
- The details of the work permit : activities permitted, authorised geographical areas,
- The legitimacy of the work permit :

  - The employer is required to send a copy of the permit produced by the foreign national to the *préfet [chief administrative officer]* of the department where said employee is being hired, 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,

  - The employer does not have to check the validity of the permit if the foreign national is included on the list of job seekers held by *Pôle Emploi* [French employment agency].

Sanction

Any breach of these rules is punishable by 5 year's imprisonment and a fine of €15,000 and the payment of a contribution to the OFII of at least 5,000 times the guaranteed minimum (so €18,100 as at 1/01/2019).

Entry procedure

When an employer wishes to hire a foreign employee who isn't in France yet, it has to complete certain procedures with the relevant authority to obtain permission to work.

The authority checks in particular that there are no job seekers who could potentially be hired by the employer.

A fee is payable to the OFII (*Office Français de l'Immigration et de l'Intégration - French immigration office*) for work permits issued under the entry procedure.

Advice

Ask us about the different stages of the entry procedure.

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 foreign employee's request. 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 holiday.

In the event of termination of employment, an improperly employed foreign national will be entitled to a lump sum payment equivalent to 3 months' salary, or the severance pay according to the applicable legislation or collective agreement if more favourable.

Information

Check the renewal of work permits.

If they are not renewed, you must terminate the contract. Said termination constitutes dismissal.

Sheet 3

The collective agreement

What you need to know :

A collective agreement is an agreement established between the representative organisations of employees and employers of a specific occupational sector. It details the employment and working conditions and professional training of employees as well as their employment benefits. Employers must establish and examine the collective agreement applicable to their company. The employment contract and payslip must be established with reference to the collective agreement.

Application of a collective agreement

All employers are required to apply the collective agreement corresponding 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 NAF code *[Nomenclature d'activités française - French business classification system]* of the company is a simple presumption for determining the collective agreement applicable.

The applicable collective agreement also depends on the location of the company ; its scope can be national, regional or local.

Advice

Ask us which collective agreement is applicable in case of multiple activities.

Information

Notice : if there is a change in activity (merger, sale, etc.), check whether this affects the determination of the collective agreement applicable.

The beneficiaries

The collective agreement applies to all employees of the company.

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

Certain occupations such as sales representatives or journalists do not benefit from the collective agreement applicable to their employer but are subject to « profession agreements ».

Advice

Ask us about the possibility of voluntarily applying a collective agreement.

The content

The collective agreement adapts the provisions of the French employment code to the specific situations of the business sector concerned.

It generally includes provisions relating to :

- Classifications, probationary period and notice,
- Working hours : organisation, overtime, fixed working day agreements, part-time...,
- Remunerations : minimum salaries, length of service bonuses, 13th month, holiday bonus...,
- Absences : paid holidays, sick leave, maternity, work place accident, family events...,
- Pension and benefits, severance pay...

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

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

Advice

Ask us, you must always compare the provisions of the collective agreement with those of the employment code to check which ones are applicable.

Sanction

If a clause of the collective agreement is not applied, the employee can claim compensation.

Employee information

When hiring an employee, the employer is required to give him/her a guide informing him/her of the collective agreements applicable in the company.

The payslip must indicate the collective agreement applied.

The employer must keep an up-to-date copy of the collective agreement at the employee's place of work for his/her perusal.

A notice specifying the following points must be communicated to the employees, by any means: applicable collective agreement, place of availability, consultation procedures by the employees during working hours.

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

A copy of the collective agreement applicable must be provided to the works council, the employee representatives and union representatives or to the social and economic committee.

Sanction

In the event of failure to inform employees of the collective agreement applicable, the company is liable for a category 4 fine (amount p 77) and the employer cannot enforce the agreement against the employees.

Sheet 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. The orders on the 2017 employment law reform confirmed the importance of the company agreement. 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. These reforms also facilitated the negotiation of company agreements in small companies.

Principle of the collective agreement

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

In principle, the company agreement cannot deviate from public policy doctrine.

But in a limited number of areas, a sector or company collective agreement can deviate from the law in a way that is unfavourable to the employee.

Furthermore, the company agreement now prevails over the sector agreement for many themes. 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...).

Advice

Ask us how the various provisions in different areas fit together so you can find out what is open to negotiation for 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 at least 50 employees.

For the agreement to be valid, the signatory unions must total more than 50 % of the votes expressed in favour of the representative unions in the first round of the last elections of employee representatives.

Advice

Ask us about the possibilities of validating 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.

Information

Companies with 11 to 20 employees without an elected staff representative and a union representative can also have recourse to a referendum to sign a collective agreement.

Negotiation without a union representative (companies with 11 to 50 employees)

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

- A staff representative appointed by a representative union organisation,
- A non-appointed staff representative,
- An employee appointed by a representative union organisation. The agreement can relate to all the themes open to negotiation. To be appointed, an elected representative or a non-elected employee must contact a representative union organisation in the sector or failing this a national and inter-professional union organisation.

If the agreement is negotiated with elected staff representatives, appointed or not, it must be signed by elected representatives representing the majority of votes expressed during the last elections of employee representatives 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 the signature of the agreement.

Sanction

Make sure you check the representativity of the union organisation appointing a representative, as well as the details of the mandate which must correspond to the subject of the negotiation.

Negotiation without a union representative (companies with at least 50 employees)

Information

The employer must firstly inform employee representatives, if any, of its intention to negotiate and, secondly, the union organisations representing the sector with a view to receiving a mandate.

In this case, the company must negotiate as a priority with an appointed employee representative.
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 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 relate to all the themes open to negotiation. It must be approved by the employees by a majority of votes expressed. A vote must be organised within 2 months after the signature of the agreement.

Sanction

When the company as no elected representatives and is negotiating with an appointed employee, it must submit written proof in this regard.

Term of agreement

The company agreement must stipulate its term: 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 publication

Advice

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

The agreement must be registered in digital form (« TéléAccords » platform) with the relevant authority by the company's legal representative. From 1/09/2017, any collective agreement is included in a national data base that can be viewed on the 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.

Information

Certain agreements are excluded from publication in the national data base.

Sheet 5

Key compulsory registers and documents

What you need to know :

All employers are required to establish and keep a number of compulsory registers and documents irrespective of how many employees they have and their business.

Staff register

This relates to any person working in the company (employee, temp, loan, intern, civic service volunteer...).

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 made available to staff representatives or the social and economic committee (when it is set up), the employment inspectorate and social security agents.

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

Sanction *Failure to keep a staff register is liable for a category 4 fine (amount page 77).*

Occupational risks assessment document

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 risks assessment document and updated every year.

Sanction *Failure to keep or update the occupational risks assessment document is punishable by a category 5 fine (amount page 77).*

Register of health and safety controls

Certificates, results and reports relating to 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.

Sanction *Failure to keep this register is punishable by a category 4 fine (amount page 77).*

Register of staff delegation on the social and economic committee

This register includes requests from members of the staff delegation on the social and economic committee (or former staff representatives) and the employer's detailed responses.

Sanction *Failure to keep this register is punishable by a fine of €7,500 (offence of obstruction).*

Duplicate pay slips

Advice *Ask us, it is recommended to keep payslips for longer.*

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.

Employee medical records

To be kept by the company.

Register of public health and environment alerts

This register must record alerts raised by employees and staff representatives when it is noted that the business is using products or manufacturing processes that entail a serious risk to public health or the environment.

Sanction *In the event of disagreement with the employer on the justification of an alert or if an alert is not followed up within a month, the employee, or the staff representative, can refer the matter to the préfet.*

Monitoring of working hours

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

Managers must be able to provide proof of the working hours performed by each employee.

Other compulsory registers and documents

Other registers or documents may be made compulsory for your business or location (e.g. register of list of temporary work sites).

Advice *Ask us about your obligations in this regard.*

Registers held in computerised form

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

Sheet 6

Key compulsory notices

What you need to know :

*In any establishment, certain types information must be brought to the attention of employees, some by means of posting and others by another means of communication (the latter are marked with an *).*

Details of employment inspectorate

Address, telephone number and name of competent inspectorate.

Details of occupational health doctor and emergency services

Address and telephone number of occupational health doctor and emergency services.

Information

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

Instructions in event of fire

Instructions in the event of an electrical accident

First aid to be given to victims.

Ban on smoking and vaping

Reminder of the principle of no smoking and designated areas.

Reminder of the principle of no vaping.

Sanction

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

Notification of employees of the health and safety risks they face

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

Notice of existence of collective agreements*

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

Sanction *In the event of failure to post or provide information regarding such agreements, they are inapplicable to employees.*

Working hours

Company working hours, work cycle, adjustment of hours, reduction of working hours.

Information *Make sure that the information on working hours is updated.*

Weekly time off*

If moved to a date other than Sunday.

Daily time off

For employees not covered by company working hours.

Periods of paid holiday and order in which holidays are taken*

Paid holidays fund*

Construction companies : company name and address of fund.

Company rules and regulations*

Companies with at least 20 employees.

Conditions relating to working from home

Electoral posters*

Sanction *Failure to inform employees about elections of employee representative may result in them being cancelled.*

Organisation of elections, electoral lists, scrutineering procedures, notice of vacant offices

Unions*

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

Provisions relating to equal pay*

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

Prevention of discrimination*

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

Number of telephone service for the prevention of discrimination.

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

Provisions relating to harassment*

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.

Sheet 7

Company rules and regulations

What you need to know :

All employers usually employing at least 20 employees are required to draft rules and regulations, but they can also be useful in other companies.

Advice

Ask us about how to calculate the employee threshold.

Compulsory for businesses with 20 employees or more

Optional below the legal threshold of 20 employees.

Drafting of rules and regulations by the employer

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

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

Advice

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

Limited content

Health and safety as well as discipline are the key components of the company rules and regulations.

Information

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

- ***Health and safety provisions***

The rules and regulations must include all the applicable provisions that employees must respect to protect their health and the health of other people concerned as a result of their actions and omissions at work. In particular, they govern blood alcohol testing in the work place.

Sanction

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 goal sought.

- ***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 ordered against an employee 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.

Consultation of staff representatives

The rules and regulations must be submitted to the works council or, failing this, the staff representative or the social and economic committee when it is set up.

If the staff representatives are not consulted, the rules and regulations are not applicable to the employees.

Sanction

In the event of non-consultation, the employer incurs the penalty for the offence of obstruction, namely a fine of €7,500.

Verification by employment inspectorate

The employer must submit the rules and regulations and the written opinion of the works council or the staff representatives or the social and economic committee to the employment inspectorate.

The employment inspectorate checks the content of the rules and regulations when they are submitted to it but also checks them subsequently at any time.

Furthermore, the employer can ask the employment inspectorate to decide explicitly on the compliance of all or part of its rules and regulations, via an « advance decision » procedure.

Sanction

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

Other registration and publication formalities

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

They are brought to the attention of people accessing the work premises or recruitment premises by all available means. If necessary, translations into other languages may also be provided. They must be regularly updated.

Information

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

Sanction

Breaches of any of the provisions concerning the rules and regulations are punishable by a category 4 fine (amount page 77).

Effective date

The rules and regulations indicate their effective date.

It is at least one month after the last publication formality.

IT policy

The development of an IT policy is subject to the procedure for adopting the rules and regulations in the event where the employer wishes to set out compulsory rules of conduct for the use of computer tools with disciplinary sanctions for non-compliance.

Sheet 8

Staff representatives : the Social and Economic Committee

What you need to know :

The 2017 employment law reform provided for the 3 existing staff representative bodies to now be merged into one : the Social and Economic Committee (SEC). The transitional period stipulated for the gradual switch to the SEC ends on 31/12/2019. The company is responsible for organising the elections to set up the SEC.

Setting up the SEC

Information *In companies with at least 50 employees consisting of at least 2 separate sites, a central SEC and a site SEC have to be set up.*

From 1/01/2018, the social and economic committee replaces the 3 existing representative bodies : the staff representatives (SR) in businesses employing at least 11 employees; the works council (WC) and the health, safety and working conditions committee (HSC) in businesses with at least 50 employees. The SEC must be set up in the company when its workforce numbers at least 11 employees for 12 consecutive months.

Organisation of elections

The employer is responsible for organising elections of staff representatives and re-elections. When the body has not been set up, an employee or a union organisation can, at any time, request the organisation of elections. The provisions relating to the SEC came into effect on 1 January 2018. Companies have to set up the SEC on the expiry of the term of office of current elected representatives and at the latest on 31 December 2019.

Advice *Ask us about the transitional procedures for setting up the SEC between 1/01/2018 and 31/12/2019.*

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

The duties of the SEC in companies with 11 to 49 employees

The staff delegation on the SEC partly performs the duties that were incumbent on staff representatives.

It presents individual or joint claims to the employer concerning salaries, 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 work place accidents or occupational illnesses. It refers all complaints or observations by staff to the employment inspectorate. It has a right of alert in the event of infringement of personal rights.

Duties of the SEC in companies with at least 50 employees

The members of the SEC perform the duties that were incumbent on the SR, WC and HSC. Economic duties: the mission of the SEC 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, training and production techniques.

Duties of the SEC in companies with at least 50 employees (cont)

Duties relating to health, safety and working conditions: the SEC analyses occupational risks, helps to facilitate access by women to all jobs, proposes actions to prevent harassment and carries out health and safety inspections.

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

Information

When the company crosses the threshold of 50 employees after the SEC has been set up, the new duties of the SEC are applicable only at the end of a 12-month period.

Means of action of the SEC

The number of elected representatives on the SEC varies according to the work force. Permanent members have delegation time credits to perform their duties, a room and a notice board, training in health, safety and working conditions. In companies with at least 50 employees, the SEC 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 benefit from economic training.

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

Advice

Ask us : under certain conditions, part of the annual surplus of the SEC'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 SEC cannot be the subject of individual or collective redundancy or termination by agreement, unless authorised by the employment inspectorate. This also refers to candidates for elections for a period of 6 months.

Sanction

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 organise staff representatives (now the SEC) can have important consequences in the situations where consultation of such bodies is required by law (physical incapacity, economic redundancy...).

Sanction

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

Union representative

A union representative can be appointed in a company or establishment with at least 50 employees.

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

Information

By a majority company agreement or an extended sector agreement, the SEC can become a « Works Council » including the authority to negotiate collective agreements.

Sheet 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 applicable legislation, it may be reclassified as a permanent contract. Note that the last employment law reform of 2017, permits an extended collective agreement to relax the rules governing fixed-term contracts.

The main cases in which a fixed-term contract is used

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

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

Advice

Ask us to make sure you avoid signing a fixed-term contract in a case not permitted by law.

The form of the fixed-term contract

The fixed-term contract must be elaborated in writing, otherwise it is deemed to be a permanent contract. Non-signature by the employee or the employer is considered as a lack of written agreement.

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

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

Sanction

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

Trial period

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

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

If the employer or the employee terminates the contract during the trial period, a notice period must be respected.

Information

When the contract does not have a precise term, the trial period is calculated based on the minimum duration of the contract.

The duration of the fixed-term contract

The fixed-term contract can be signed :

- Date to date : in this case, it has a maximum duration of 18 months, including renewal, and can only be renewed twice,
- 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 duration.

Advice

Ask us for details : the maximum duration of the contract and the terms of its renewal vary according to the cases where fixed-term contracts are used. Your collective agreement can also include specific provisions.

The rights of the employee under a fixed-term contract

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

The end of the fixed-term contract

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

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 compensatory allowance of paid leave, irrespective of the length of the contract.

Sanction

If the contract continues after the set term, it becomes a permanent contract.

Termination of fixed-term contract

The fixed-term contract cannot be terminated before its term except in the event of agreement between the parties, serious misconduct or force majeure or if the employee can provide proof that he or she was 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 shall be at least equal to the amounts of remuneration that 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.

Information

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

Successive fixed-term contracts

A succession of fixed-term contracts can only be entered into for the same job if there is a gap between the contracts, as indicated below (except in exceptional cases) :

- A third of the elapsed contract term for contracts that have a duration of more than 14 days,
- Half of the elapsed contract term for contracts that have a duration of less than 14 days.

Special arrangements may be stipulated by an extended collective agreement.

Information

N.B. A fixed-term contract must not be used to fill a post related to the company's normal, ongoing business.

Sheet 10

Part-time contract

What you need to know :

A part-time employee is an employee whose working hours are less than the company's working hours as per the applicable legislation or collective agreement. Minimum working hours have to be respected however. 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 hr per week) or the hours stipulated by the collective agreement if this is 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 below the minimum working hours due to personal constraints or in order to combine several activities. There are exceptions to minimum working hours: students under the age of 26, private employer, short-term contract of one week at the most.

Part-time work can be arranged at the initiative of the employer by company agreement or failing this by an extended sector agreement. Failing a collective agreement, it can be implemented by the employer after consulting the staff representatives (or the SEC). In the absence of staff representatives, it can be implemented at the initiative of the employer or at the request of employees after informing the employment inspectorate.

Part-time work can be organised over the week or the month, or over the year, within the context of a reduction of working hours due to personal life demands or adjusted part-time hours.

Information

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

Part-time employment contract

A part-time employment contract can be signed for a non-fixed or fixed term. In all cases, it must be in writing and include a number of compulsory details including : set weekly hours or monthly hours, breakdown of working hours between the days of the week or the weeks of the month, cases of modification of the breakdown of working hours, the terms according to which working hours are communicated to the employee for each day worked, the possibility of working additional hours...

Working hours are an element that can only be modified with the employee's agreement.

Sanction

The absence of a written document or indication of working hours suggests that the contract has been signed on a full-time basis, plus the employer is liable for a category 5 fine (amount p 77).

Organisation of working hours

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

Changes to the weekly or monthly breakdown of working hours must be notified to the employee within a 7 day notice period, unless a different notice period is stipulated by company or sector agreement.

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

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

Advice

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

Additional hours

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

The extended sector agreement can stipulate the increased 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 rate of increase 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 are requested over the limits stipulated in the contract or if the employee has been notified less than 3 days in advance.

Sanction

The employment contract must be amended if, during a period of 12 consecutive weeks (or for 12 weeks during a period of 15 weeks), the average hours worked exceeds 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 probationary 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 the staff numbers in proportion with their hours of work. Their pay is proportional to that of a full-time employee occupying an equivalent job. They have a priority right to occupy a full-time job in the company.

Information

Since 1/01/2019, the remuneration of additional hours benefits from a reduction of employee contributions and an exemption for income tax up to an annual limit of €5,000.

Advice

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

Sheet 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 accompanied with various advantages for the employer. Adjustments have been made to this type of contract since 1 January 2019.

Apprenticeship contract

Advice *Ask us, exceptions to the age limits are possible.*

Advice *Ask us about the provisions relating to apprenticeship in seasonal activities.*

Information *From 1/01/2020, the apprenticeship contract will be registered with the employer's « opérateur de compétences »(OPCO) (skills agency).*

It is intended for young people between the ages of 16 and 29 and enables them to acquire higher professional and technological education or a professional qualification. All companies in the private sector (including temping companies) and associations can sign an apprenticeship contract if they declare they will take the measures necessary to organising such an apprenticeship.

The apprenticeship contract is generally a fixed-term contract of 6 months to 3 years according to the type of training, but it can also be a permanent contract with an apprenticeship period. It is established in writing, on a standard form, signed by the employer and the apprentice and approved by the director of the training centre. It must be sent to the chamber of commerce or chamber of trade for registration.

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

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 the 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 contribute to the apprentice's acquisition of skills in liaison with the training centre. An apprenticeship supervisor cannot mentor more than 2 apprentices.

Advice *Ask us about the skills required to perform the role of apprenticeship supervisor.*

Details of apprenticeship process

Apprentices are employees in their own right. The legal provisions and collective agreements of the company 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 benefits from an additional 5 paid working days' holiday to prepare for exams, to be taken in 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 probationary period, unless stated otherwise in the applicable collective agreement. His/her length of service is also taken into account.

Sanction

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

Information

For contracts signed from 1/01/2019, the salary schedule has been adjusted.

Advantages of apprenticeship contract

Information

Check the provisions applicable in your company in relation to signing apprentices up to benefit and healthcare plans.

Advice

Ask us about the formalities to be fulfilled to benefit from an apprenticeship grant.

Grants and exemptions in favour of employers of apprentices have been amended from 1/01/2019.

Thus, the specific exemptions for employer contributions have been removed in favour of the general reduction of employer contributions, which is now applicable to apprentices under common law conditions. Furthermore, the apprentices' salary is exempt from employee social security contributions for the part up to 79 % of the minimum wage. Apprentice contributions are now calculated on the apprentice's actual salary.

For contracts signed from 1/01/2019, employers with less than 250 employees hiring apprentices preparing for a qualification equivalent to baccalauréat level benefit from a single grant of €4,125 for the first year of the contract, €2,000 for the second year and €1,200 for the third year.

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

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 from 1/01/2019, the possibility of terminating the contract after the probationary 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.

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 2 months before.

The apprenticeship contract cannot be terminated by means of approved termination by agreement.

Advice

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

Sheet 12

Professional training contract

What you need to know :

The professional training contract is a sandwich training contract through which beneficiaries can obtain a qualification to facilitate their integration into the work place. The employer is entitled to certain grants in relation to this contract.

Beneficiaries

Professional training contracts are open to :

- Young people aged 16 to 25 who want to further their initial training,
- Job seekers aged 26 and over,
- Recipients of basic welfare and disability benefits (*revenu de solidarité active* (RSA), *allocation de solidarité specifique* (ASS), *allocation aux adultes handicapés* (AAH)),
- People who have benefited from a *contrat unique d'insertion*.

Advice *Ask us, specific provisions 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 company's OPCA *[skills agency]*,
- The OPCA decides on the payment of training costs and submits the case to the *Direction régionale des entreprises, de la concurrence, de la consommation, du travail et de l'emploi* (DIRECCTE).

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

It can be performed partly abroad for a maximum period of one year.

Sanction *The contract cannot include a repayment of training costs clause. Such a clause is invalid and ineffective.*

Advice *Ask us : 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.

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

The minimum training period is between 15 % and 25 % of the total duration of the contract in the case of a fixed-term contract (with a minimum of 150 hours). For permanent contracts, it corresponds to the duration of the professional training programme.

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.

Sanction

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 be a mentor for 2 employees).

Terms of employment

Holders of professional training contract 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 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 salary as per 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).

Information

N.B.: *The rate of pay changes on the first day of the month after the young person's birthday and/or the date of the contract.*

Advantages of professional training agreement

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

The training costs are covered by the *organismes paritaires collecteurs agréés* (OPCA) *[skills agencies]*.

The employer receives a fixed grant of €2,000 from the *pôle emploi* [employment agency] for hiring a job seeker aged at least 26.

A fixed government grant of €2000 is also granted for hiring a job seeker aged 45 and over.

These two fixed grants can be combined.

Advice

Ask us : the OPCA [skills agencies] can cover the tutoring costs.

Information

The « organismes paritaires collecteurs agréés » (OPCA) are now « opérateurs de compétences » (OPCO).

Sheet 13

Probation period

What you need to know :

The probation period is an opportunity for the employer to assess the employee's performance, given his/her experience in particular, and for the employee to assess whether he/she is suited to the role. During this period, the employer or the employee can terminate the employment contract, with no justification being required and no compensation payable.

Existence of trial period

Advice

Ask us : make sure you don't confuse the probation period with the pre-employment aptitude test.

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, he/she cannot be subject to a probation period.

Length of probation period

Full or part-time permanent contracts can include a probation period subject to the statutory maximum lengths indicated below :

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

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.

Longer periods than the statutory periods can apply if they are stipulated by a collective agreement signed before 26 June 2008.

The probation period is calculated in calendar days. It begins on the start date of the employment contract.

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

Advice

Ask us : specific rules are 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.

Continuation

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, family leave and so on), the probation period shall be continued for an equivalent period of time.

Extension of probation period

The probation period can be extended once provided that this option is stipulated by both of the following an extended branch agreement setting the terms and lengths of such extensions, and the employment contract.

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

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

The employee's agreement to the extended probation period must be obtained. Such agreement must be provided in writing during the initial period, clearly and unequivocally expressing the employee's intentions.

Information

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

An extension must not be decided when signing the employment contract.

End of probation period

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

The employment contract cannot end simply due to the end of the probationary period or if the employee refuses to extend the period.

Termination

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 (Except in the case of more favourable provisions to 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.

Information

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.

The probation period, including extension, 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 period 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).

Sanction

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

Sheet 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 : the public policy provisions, the provisions to be subject to the collective bargaining and the supplementary provisions applying only in the absence of collective agreement. Thus it is possible to derogate from legal requirements by a collective agreement, except in cases of public policy provisions.

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 35 hours.

There are a number of mechanisms by which companies can better adjust working hours to variations in work load : distribution of working hours over the year, fixed hours agreements, banking of working hours ...

Advice *Ask us about the best systems for your company.*

Overtime

Working hours in excess of 35 hours a week (or the equivalent) are classed as overtime hours.

They are calculated per week. A week (seven consecutive days) can been defined by a company agreement or, failing that, by a branch agreement. In the absence of an agreement, the week is defined from Monday 0:00 to Sunday 24:00.

An increased salary is paid and/or time-off in lieu is awarded.

Sanction *Failure to record all or part of overtime hours worked on the payslip constitutes an offence in respect of illegal work and is subject to a penalty of €45,000 and 3 years' imprisonment.*

Payment of overtime

The increased rate for overtime is determined by company agreement or branch agreement and cannot be less than 10 %. Unless agreed otherwise, it is 25 % for the first 8 hours of overtime, 50 % from the 44th hour.

From 1/01/2019, the remuneration of overtime shall benefit from a reduction of employee contributions and an exemption for income tax up to an annual limit of €5,000.

In companies with less than 20 employees, each hour of overtime worked is eligible for a fixed deduction of employer contributions of €1.50.

The employers who reach or exceed 20 employees for 2016, 2017 or 2018 continue to benefit from the fixed deduction during 3 years.

Advice *Make sure that the overtime has been carried out at your request.*

Information *The increased rates determined by a company agreement can be below the rates determined by a branch agreement.*

Substitute time-off in lieu

All or part of the payment for overtime and the associated increased rates of pay can be substituted by an equivalent time-off in lieu.

Advice *Ask us about the procedure for applying time-off in lieu.*

Annual quota

The annual overtime quota is determined by company agreement or, failing this, by the branch agreement.

If there is no collective agreement, the annual overtime quota is 220 hours per employee.

Employee representatives must be informed before working any overtime hours within the annual quota.

To be able to work more overtime than the quota established, the employee representatives must be consulted.

Overtime hours worked over the annual quota are eligible for compulsory time-off in lieu in addition to increased pay.

Advice *Ask us, some overtime is not allocated to the quota. Check with us.*

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.

Since 1st January 2017, a company agreement or, failing this, a branch agreement may provide for an overrun of the 44 hours per week up to a limit of 46 hours per week.

Sanction *Failure to observe maximum daily and weekly working hours is penalised, per employee concerned, by a maximum administrative fine of €2000 or a category 4 fine (amount p 77).*

Daily working hours

The maximum working hours per day is 10 hours. This can be increased by a company agreement or, otherwise, a sector agreement in certain circumstances.

No more than 6 hours can be worked in a day without a minimum break of twenty minutes.

The minimum daily time-off is 11 consecutive hours.

Information *Maximum working hours must also be observed for employees with more than one job.*

Weekly time-off

It is not permitted to employ someone for more than 6 days a week.

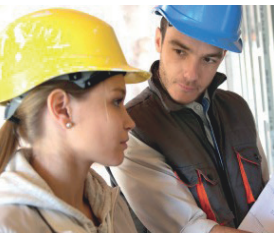
Weekly time-off must be 35 consecutive hours including Sunday as a general rule.

Permanent automatic exemptions and individual exemptions subject to authorisation can be made.

Advice *Ask us about the various exemptions possible.*

Sheet 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.

Employment of young people

Young people aged under 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 lasting at least 14 days and provided that they have a period of continued time off that is at least equal to half of 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.

Information

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

Daily working hours

The number of hours worked per day cannot exceed 8 hours (7 hours per day for young people under the age of 16).

Weekly hours

The number of hours worked per week cannot exceed the statutory working hours, namely 35 hours.

Since 1/01/2019, for work carried out on building and construction sites, and activities involving the creation, development and maintenance of landscaped areas, there can be an exception to the weekly working hours of young people (can be increased up to 5 hours) and the daily working hours (can be increased up to 2 hours), subject to informing the relevant authority. The young people concerned must then be compensated accordingly.

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

Sanction

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 page 77).

Breaks

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

Daily time off

The minimum time off per day 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 rest. Unless stated otherwise, one of the 2 days off must be a Sunday.

Information

Be vigilant, there are no exemptions for young people under the age of 16 (except for an entertainment company).

Night working

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 pm, 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, patisserie, catering and entertainment sectors.

Sanction

Any breach of the night working regulations is punishable by a category 5 fine (amount page 77).

Public holidays

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

However, an extended sector collective agreement or a company agreement can specify an exemption to this restriction in certain sectors (hotel, catering, bakery, butchers...)

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

Advice

Ask us about the provisions applicable to your occupation.

Paid holidays

Regardless of their length of service, employees under the age of 21 on 30 April of the previous year are entitled, if they request this, to 30 working days' holiday, paid on the basis of holiday days actually earned.

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.

Medical check-up

Young people under the age of 18 benefit from an employment medical prior to being hired.

Sheet 16

« Fixed working time agreement »

What you need to know :

A fixed working time agreement (« convention de forfait ») is a specific system of working time arrangement applicable to certain employees. 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 applicable

Information

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

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.

Fixed working time agreement based on hours

With these agreements, a certain amount of foreseeable overtime can be included in the employee's working hours, over the set period. The arrangement can be on a weekly, monthly or annual basis.

The employee's pay includes the usual salary applicable and pre-established overtime, paid at the higher rates applicable. If the employee works more hours than the set amount, these hours are counted and paid at the higher rates. Conversely, if the number of hours worked is less than the set amount, the lump-sum 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.

Employees under this system of fixed working hours are governed by the rules relating to maximum daily and weekly working hours, and daily and weekly time off.

Information

The amount of overtime included in the salary must be precisely indicated in the fixed working time agreement.

From 1/01/2019, the remuneration of overtime shall benefit from a reduction of employee contributions and an exemption for income tax up to an annual limit of €5,000.

Information

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.

Specific features of annual fixed working time agreements based on hours

The collective agreement allowing this type of agreement must include certain details including categories of employees concerned, reference period, number of hours included, conditions regarding absences and so on.

These agreements only apply 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 independence in how they arrange their use of time.

Fixed working time agreement based on days

The system of fixed working time in days allows employees to be paid on the basis of an annual number of days worked, without calculating work time. The annual number of working days is 218 days maximum.

A fixed working time agreement can be signed by :

- Executives who independently organise 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 complete independence in how they organise their use of time to perform the responsibilities assigned to them.

Advice

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

Sanction

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.

Information

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

Conseil

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 hours of work

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 legal guarantees related to daily and weekly time off, paid leave and public holidays in the company.

The employer must regularly check that the employees' 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 employees' workload,
- The employer and employees periodically discuss the employees' workload, their work/life balance, their pay and the organisation of work in the company,
- Employees can exercise their right to disconnect.

Fixed working days system and salary

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

Information

From 1/01/2019, paid overtime shall benefit from a reduction of employee contributions and an exemption for income tax up to an annual limit of €5,000.

Fixed working days system and days off

Employees under this system can, if they wish, in agreement with the employer, waive some of their days off.

In this case, the number of days worked over the year cannot exceed 235 days. This work overtime is paid at an increased rate of 10 % minimum.

An addendum to the individual agreement must be signed.

Sheet 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 prove how many hours have been worked.

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

Sanction *The use of GPS is not a legitimate system for monitoring working hours if another method is possible.*

Monitoring of working hours

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

Conversely, a company may arrange for employees to arrive, leave and take a lunch break at different times.

Set company working hours

Company working hours are sent in advance to the employment inspectorate.

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

If overtime is regularly worked, the company working hours will indicate this.

If occasional overtime is worked, this must be noted in an individual record.

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

Information *There may be several set working hours in the same company, for example per department.*

Sanction *Failure to post the company working hours is punishable by a category 4 fine (amount page 77).*

Absence of company working hours

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

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

The social and economic committee can consult these documents.

Information

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

Sanction

Failure to keep these records is sanctioned, per employee concerned, either by an administrative fine of €2,000 maximum, or by a category 4 fine (amount page 77).

Sanction

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

In the event of fixed annual working days

Work time 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.

Proof of hours worked

In the event of a dispute relating to the existence or number of hours worked, the employer must provide to the court details showing the hours actually worked by the employee.

If overtime eligible for the reduction of social security contributions is worked, the documents recording working hours must be made available to the URSSAF inspectors.

Advice

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

Sheet 18

Sunday working

What you need to know :

Sunday is in principle the weekly day off. However, given that there are many exceptions, employees may have to work on this day. These exceptions can be permanent or temporary, subject to authorisation or not, applicable to the whole country or to certain precisely defined areas.

Sanction

Failure to comply with the provisions of the Employment Code relating to weekly time off and Sunday rest, is punishable by an administrative fine of €2,000 maximum, or by a category 5 penal fine (amount page 77).

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. Consequently, the weekly time off is 35 hours in all companies.

Automatic exemptions

- In businesses that have to be operated or open based on production constraints, the specific activity or the needs of the public, there may be automatic exemptions to the Sunday rest rule. The weekly time off is then allocated by rotation so some employees will have to work on Sunday.

Unless there is a collective agreement, employees do not benefit from specific considerations for working on a Sunday.

- Food retail 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 stipulated but only for employees working in stores with a surface area of over 400m².

Information

A complete list of the activities 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 allocating 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 %.

Exceptions granted by the *préfet* or the local authority

- Temporary exceptions 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 establishment.

  The authorisation is given for a period of 3 years maximum, in accordance with a specific procedure. Only employees who volunteer can work on a Sunday. A collective agreement sets the considerations granted to employees.

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

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

  Employees receive at least double the normal pay due for an equivalent period and benefit from equivalent time off in lieu. Only employees who have volunteered and agreed in writing can work on Sundays.

Information

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

Information

Orders have identified certain districts of Paris and provincial towns (Cannes, Deauville, Nice...) as ITZs. An order has also identified the railway 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 ».

Exceptions in certain geographical areas

Retail establishments supplying goods and services situated in certain areas of the country can grant weekly time off by rota to all or part of their staff. Therefore, some employees may have to work on Sunday.

To enable this, the establishments must be covered either by a company agreement or otherwise a sector agreement, or an agreement signed for a geographical area. Working on a Sunday is voluntary and benefits from compulsory compensations, particularly in the form of a salary.

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

Employee information

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 an up-to-date register of weekly time off.

Advice

Ask us about the methods for implementing Sunday work, in certain geographical areas, for companies with less than 11 employees.

sheet 19

Benefits

What you need to know :

Increasing employees' income is not always done means of a bonus or pay rise. There are other solutions some of which allow exemption from all or some of the 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 levies up to a maximum amount set each year.

Supplementary pension and benefit plans

Over and above the obligations determined by the applicable 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 financed meet very set conditions (see Fact Sheet 21).

Advice

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

Profit-sharing and employee saving plans

Any company, regardless of its number of employees, has the option to set up a profit-sharing scheme under which sums can be paid to employees calculated on the basis of the company's results or performance.

Setting up a profit-sharing system is subject to the signature of an agreement.

The sums paid in respect of profit-sharing are only subject to CSG/CRDS. From 1/01/2019, they are exempt from the *forfait social* [*contribution paid by employer]* in companies with less than 250 employees (refer to Fact Sheet 24).

Advice

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

Vouchers for domestic and personal services (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. The company benefits from a tax credit of 25 % of subsidies paid.

The company manager or the director can also benefit.

Information

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

Information

The exemption from charges applicable to shopping vouchers or gift certificates does not apply to those paid by the employer when there is a Social and Economic Committee (SEC).

Advice

Ask us, this exemption from charges results from a URSSAF waiver with strict application conditions.

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 (€169 in 2019).

The limit can be exceeded under certain conditions : for example, for Christmas or back to school, the threshold is 5 % per child and per event.

The employer may give its employees « culture vouchers » exclusively intended for cultural goods or services (cinema seats, museums, books, DVDs). These are totally exempt from social security contributions.

Benefits in kind

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

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

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

Advice

Ask us about the methods for valuing benefits in kind.

Holiday vouchers

Advice

Ask us about how to organise 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 benefit from holiday vouchers.

Sheet 20

Contribution to travel costs

What you need to know :

All companies, regardless of their location in France and the number of staff, are obliged 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.

Sanction

Employers who do not comply with this obligation are liable for the fine stipulated for category 4 violations (amount page 77).

Reimbursement of public transport costs

The reimbursement of home-to-work transport costs is compulsory for the employer if employees :

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

Amount of reimbursement of public transport costs

The amount reimbursed is 50% of second class tickets purchased and 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 17.5 hours or more, the reimbursement is the same as for full-time employees, otherwise it is calculated pro rata.

Information

Take note of 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 amount of the reimbursement must be shown on the payslip.

It is exempt from social security charges, including in the event of application of a specific fixed deduction for business expenses. It is exempt from income tax.

Advice

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

Reimbursement of private transport costs

The employer can pay all or part of the fuel costs (or electricity costs) incurred by employees for their journeys between their usual residence 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 their place of work is outside an area covered by public transport, or
- 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.

Such reimbursement cannot be combined with the compulsory reimbursement of public transport costs.

This does not concern employees benefiting from a company car or employees whose transport is provided free by the employer.

Information

It is possible, under certain limits, to combine this system with the reimbursement of mileage costs.

Terms of reimbursement of private transport costs

Advice

Ask us about the evidence to be provided for this reimbursement.

Reimbursement is implemented either by a unilateral decision by the employer after consulting staff representatives (SEC), or by the signing of a company agreement. The employer must have details justifying the reimbursement.

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

Tax and social security rules for reimbursement of private transport costs

Reimbursement is exempt from social security charges and income tax for up to €200 per employee and per year, except in the case of the application of a specific fixed deduction for business expenses.

Sanction

The reimbursement of fuel costs will not be exempt from social security charges if it is not paid to all employees meeting the conditions.

Reimbursement of bike and car-sharing costs

Information

The reimbursement of bike or car-sharing costs can be applied for the journeys required to get to public transport stops and combined with the reimbursement of public transport costs.

The employer can reimburse the costs incurred by its employees for bike trips between their home and their place of work, in the form of a distance allowance of €0.25/km.

This reimbursement is made under the same conditions as for fuel costs. To be exempt from social security charges and tax, the distance allowance is limited to €200 per employee per year. This limit is assessed by totalling any fuel costs paid.

On the same principle and within the same limits, employers can reimburse the costs incurred by their employees as car-sharing passengers, from 1/01/2019.

Sheet 21

Supplemental employee protection

What you need to know :

Supplemental employee protection is defined as all the cover implemented 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/branch agreements. In all cases, the employer assumes certain obligations in implementing such protection.

Advice

Ask us, following the merger of the Agirc-Arrco pension schemes and the current negotiation on how to manage them, the applicable rules relating to affiliation to employee benefit plans might change.

Information

Make sure that the policy arranged with your insurer complies with the applicable legislation or your collective agreement. The notion of « responsible contract » is changing and is going to require measures to ensure compliance between now and 1/01/2020.

Obligation to implement such a scheme

Implementing an employee benefits plan is compulsory for management employees and employees in a similar role. The employer pays a contribution of at least 1.5 % of the salary subject to the social security limit, to fund supplementary death benefits in addition to the social security benefits (so-called « heavy » benefits). However, collective agreements often require the provision of supplementary employee 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 as of 1 January 2016, funded at least 50% by the employer.

If employers fail to respect their obligations according to applicable legislation or collective agreements, they must cover the uninsured risks.

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

The procedures for implementing such schemes

A supplemental employee protection scheme must be implemented on the basis of a legal document:

- Collective agreement,
- Ratification by the majority of parties concerned 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 financed (employee and the employer's parts) and the cases of exemption.

Advice

Ask us about the schemes best suited to your companies and the procedures to be followed.

Employee information

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

The employer must be able to **prove** that all its employees have received the information guide. Failing this, the clauses of the policy are not applicable to the employee who can claim against the employer in case of loss.

Information

Make sur that when changes are made to the policy, a new notice has to be given to the employee.

Employee registration

Advice

Ask us, in some cases, the employee can ask to be exempted from registration.

The employer must register each beneficiary under the company's protection schemes.

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

Transferability of employee protection

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 is entitled to the maintenance of the « health » and « employee protection » 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 duration of the last contract, limited to 12 months. Sector agreements may sometime specify longer maintenance times.

There is no additional cost to the employee, benefits are funded by mutualisation.

The employer indicates the employee's right to transferability on the employment certificate provided. It also informs the insurance company.

Sanction

The employer is responsible for ensuring the transferability of employee protection. The company may be held liable for failure to do so. For example, claims may be made to the company to fund a death benefit or a disability pension.

Funding supplemental employee protection

Advice

Ask us to make sure you are eligible to benefit from 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.

Such benefits are funded in principle by the employee's and the employer's contributions paid.

The payment by the employer is not submitted to 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 subject to CSG and CRDS contributions. They are also subject to the *forfait social* except for companies with less than 11 employees. When the workforce of the company exceed 11 employees for the first time, exemptions are provided for.

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

Sheet 22

Benefits in kind

What you need to know :

When an employee uses a benefit provided by the employer for personal purposes, this is considered to be a benefit in kind. There are various types of benefits in kind which have to be subject to social security contributions. 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 of 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 their business purposes which are in this case seen as business expenses paid by the employer for which no contributions are due.

Information

Benefits in kind must be shown on the pay slip.

Working out the value of a benefit 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] and represent a minimum value. Benefits in kind estimated on an actual basis can be lower than the set value subject to the production of evidence.

Advice

Ask us about how benefits in kind affect the minimum cash salary to be paid to employees.

Information

For company representatives, set values can only be used for vehicles and computing and communication equipment.

Food benefits in kind

Except in the case of business trips, when an employer pays for its employee's meals, this is 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 [social security contributions collections agency]* at €4.85 per meal (value as of 1/1/2019).

Information

In Hotels-Cafes-Restaurants, the value of food benefits in kind is worked out in a specific way.

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 considered to be a benefit in kind.

The assessment of 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 a pro rata basis given the number of kilometres travelled annually for the employee's personal use.

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

Advice

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

Computing and communication equipment benefits in kind

When an employer permanently provides employees with computing and communication equipment (computer, mobile telephone, internet access, etc) 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 VAT of such equipment or, where applicable, the annual contract cost including VAT.

When the employer opts for a value based on actual expenses incurred, he must provide evidence of the time the employee spent using the equipment for personal use.

Information

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.

Information

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...).

sheet 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

Information

The employer determines the conditions under which business expenses are justified and reimbursed.

When an employee justifies that certain expenses have been incurred for the purposes of his professional activities and in the interests of the company, such expenses have to be reimbursed. They are exempt from social security contributions if they meet the required conditions, such as type of business expenses and receipts in support of expenditure.

Evaluation of business expenses

Business expenses are covered :

- by reimbursement of the expenses actually incurred by the employee, subject to the provisions of supporting documents, or
- by the payment of fixed allowances.

The tax authority determines the amount of fixed allowances for different categories of business expenses.

If the allocation paid by the employer is lower than the amount determined by the authority, it is deemed to have been used in accordance with its purposes and is excluded from social security contributions.

If the allocation paid by the employer is higher than the amount determined by the authority, the allocation 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 business expenses statement is established but the employer does not provide supporting documents.

Sanction

For company officers, the business expenses allowance can only be based on the expenses actually incurred.

The specific fixed deduction for business expenses

Certain occupations benefit from a specific fixed deduction for business expenses which reduces the base for social security contributions (10 % for construction workers, 30 % for sales representatives, 30 % for journalists and the like).

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).

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

Advice

Ask us about certain expenses that may be exempt from social security contributions despite the application of a specific fixed deduction.

Sanction

The URSSAF (social security collection office) may challenge the application of the specific fixed deduction if the employer cannot provide evidence of the employee's annual agreement.

Food expenses

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 €18.80 per meal (for 2019) without the employer needing to provide supporting documents. The employer may still prefer to offer a reimbursement based on the expenses actually incurred on the basis of a receipt.

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

Advice

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).

Les frais de véhicule

Lorsque le salarié est contraint d'utiliser son véhicule personnel à des fins professionnelles, l'indemnité forfaitaire kilométrique est exonérée de cotisations sociales dans les limites fixées par le barème kilométrique de l'administration fiscale.

Ces dispositions sont applicables aussi aux mandataires sociaux.

La preuve des kilomètres parcourus devra être apportée.

Advice

Ask us, the mileage schedule will be changing in 2019.

Long-distance travel expenses

Long-distance travel is characterised by the fact that it is impossible for an employee to return home every day due to his/her working conditions, in other words when 2 conditions are simultaneously met :

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

A schedule is determined for meal and accommodation expenses (with breakfast). This schedule is differentiated for assignments up to 3 months, assignments of 4 to 24 months and 25 to 72 months. For accommodation, a distinction is made between assignments within Paris and inner area and assignments in other *départements*.

Advice

Ask us about the provisions regarding other categories business expenses : professional mobility expenses and expenses related to working from home and the use of new information and communication technologies.

Sheet 24

Employee savings

What you need to know :

Employee savings consist of various mechanisms aimed at involving employees in the company's results and performance and fostering collective saving. Separate from the salary, which they cannot substitute, employee savings are a factor of motivation. They benefit from favourable social security and tax treatment. A distinction is made between profit-sharing and incentives.

Profit-sharing

Information *This concerns companies usually employing at least 50 employees for 12 months, consecutive or not, during the last 3 financial years.*

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-sharing is established by law but a different formula may be stipulated by the company under certain conditions.

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 pay based on the achievement of targets defined on the basis of precise criteria.

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

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

Implementation

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

Incentives and profit-sharing are implemented by an agreement signed with the company. The agreement must be registered with DIRECCTE for the sums paid to be eligible for social security exemptions. DIRECCTE verifies the compliance of the agreement.

Incentive agreements are signed for a period of 3 years.

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. The breakdown between employees is carried out uniformly, or proportionally with salaries or attendance time, or by combining several of these criteria. Maximum payment limits per employees are stipulated.

Information *In companies with 1 to 250 employees, the director can benefit from profit-sharing (under certain conditions) or incentives, if specified by the agreement.*

Allocation of sums

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

The sums paid for profit-sharing are in principle unavailable for 5 years but there are cases for early release. However, for each distribution of profit-sharing, the employee can request immediate payment.

The sums allocated in respect of incentives are either cashed immediately or invested in an employee savings plan. If not decided by the employee, the sums are assigned in full to the employee savings plan (PEE).

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

Advice

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

Tax and social security benefits

For employees, the sums received by way 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, the sums paid for inventive schemes or profit-sharing are exempt from social security contributions.

From 1/01/2019, the *forfait social* (employer's contribution at the rate of 20 %) is removed in companies with less than 50 employees for all the schemes (profit-sharing, incentives, top-ups).

In companies with 50 to 249 employees, the *forfait social* is removed for incentives only.

The sums paid by way of incentives and profit-sharing are deductible from the company's profit.

Information

The sums allocated by way of incentives or profit-sharing connot substitute any element of pay in effect in the company.

Employee savings plans

Employee savings plans are set up to receive and make money on sums obtained from profit-sharing or incentive schemes, as well as voluntary payments by the employees and the company (« top-ups »). They must include a grant from the employer (payment of operating costs and/or top-ups).

They can be set up by any company. Such plans can be a company savings plan (PEE) or a collective pension plan (PERCO).

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

The PERCO allows employees to create savings for themselves which are accessible when they retire. There are certain cases for early release. A PERCO can only be set up if there is already a PEE in the company.

Advice

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

Information

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

Sheet 25

Suspension of employment contract

What you need to know :

In certain situations, the employment contract ceases to be performed.

Illness

The applicable collective agreements or, failing this, the legislation stipulates :

- How and when employees must inform their employer,
- The terms according to which the salary continues to be paid (the law stipulates that an additional salary is due by the employer for any employee with one year's length of service),
- The possibility for the employer to get a « second medical opinion ».

In the event of a prolonged absence or frequent and repeated absences due to illness which affects the organisation of the company and results in the need to permanently replace the employee by hiring someone under a permanent contract, the cancellation of the employment contract may be justified.

Advice *Ask us, illness can have consequences on other events : paid holidays, notice, trial period...*

Work place accident and occupational illness

A work place 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 employer must notify the employee's health insurance provider within 48 hours of the occurrence of the accident and issue an accident report to the victim.

Occupational illnesses are illnesses that have been recognised as such by decree or have been individually recognised according to the set procedure.

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

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

Sanction *Failure to declare a work place accident is liable for a category 4 fine (amount page 77).*

Information *A return-to-work medical is compulsory after maternity leave, an absence for occupational illness or an absence of at least 30 days for a work place accident or non-occupational illness. It must be organised on the day the employee returns to work or no later than within 8 days.*

Maternity

Pregnant employees are entitled to at least 16 weeks' maternity leave in total, which includes prenatal and postnatal leave. They benefit from a number of guaranteed protections : protection from redundancy, right to authorised absences, guarantee of wage progression, right to paid holidays on return from maternity leave. Certain guarantees are also granted to the father.

Paternity

The father can have 11 consecutive calendar days of paternity leave which must be taken within 4 months of the birth.

From 1/07/2019, this leave will be 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 and is combined with the 3 days' birth leave.

Advice

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

Parental childcare leave

Information

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

Employees with 1 year's length of service on the date of their child's birth 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 such leave, which can be full-time or part-time and is not paid by the employer. At the end of the leave, the employee must be reintegrated into his/her previous job or a similar job.

Family leave

- ***Leave for family events :*** Any employee can benefit from an exceptional authorised absence for a wedding, birth, adoption or death of a close relative, on the submission of proof.

  Such leave is classed as actual paid work and must be taken at the time of the events in question.
- ***Leave for sick child :*** Any employee 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 :*** Any employee whose dependent child is affected by a disease or disability or is the victim of a particularly serious accident requiring constant attendance and restrictive care can benefit from 310 working days' leave, over a maximum period of 3 years (renewable in the event in the case or relapse or recurrence). Such leave is not paid by the employer. The employee may receive daily benefits for this leave.
- ***Carer leave :*** An employee, with at least 1 year's length of service, who wants to care for a relative with a particularly serious disability or loss of autonomy can benefit from leave for a duration determined by collective agreement up to a maximum of 1 year, including renewals. Such leave is not paid.
- ***Family solidarity leave :*** Any employee wishing to provide end-of-life support to a relative can benefit from leave for a duration determined by collective agreement or failing this 3 months (renewable once). Such leave is not paid. The employee may receive a daily benefit for such leave.

Information

Check the provisions of your collective agreement relating to leave for family events. A company agreement may stipulate less favourable periods of time than the collective agreement.

Information

Under certain conditions, any employee can voluntarily waive days off for the benefit of another company employee looking after a seriously ill child, or caring for a dependent or disabled relative.

Advice

Ask us about the terms of these different types of leave.

Sheet 26

Paid holidays

What you need to know :

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

Holiday entitlement

Sanction *Breaches of the legislation and regulations on paid holiday are punishable by a category 5 fine (amount page 77).*

Holiday entitlement is assessed per reference period. A company agreement, or 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 has joined a paid holiday fund).

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

Earning holiday

All employees, regardless of their working hours, earn 2.5 working days of paid holiday (or 2.08 worked days) per month worked.

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

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

Holiday period

Advice *Ask us : special provisions are stipulated in the case of annualisation of working hours or affiliation to paid holiday funds.*

This is set by company agreement or otherwise by sector agreement. Failing this, it is set by the employer, after consulting the staff representatives (social and economic committee).

In all cases, it comes 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.

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.

Advice

Ask us : in certain cases, possibilities for carrying holiday forward are stipulated by law.

Information

The collective agreement can determine the times the employer must respect if it intends to change the order and dates of holidays. Otherwise, the time is 1 month.

Order for taking holidays

This is set by the company agreement or otherwise by the sector agreement. Failing this, it is set by the employer, after consulting the staff representatives (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.

Splitting up holidays

For holiday days (excluding 5th week) taken outside the main period (1st May to 31 October) employees are entitled to additional holiday days. A company agreement, or otherwise a sector agreement, can determine the terms under which holidays are split up.

Advice

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

Calculation of holiday days

Advice

Ask us : a certain number of events have an impact on paid holidays (illness, notice...).

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 for one holiday day, even if it corresponds to a day not usually worked.

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 holiday period.

Information

Make sure that the payslip shows the dates of holidays and the amount of the corresponding payment.

Sheet 27

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 execution 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's 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).

Information

There may be other public holidays in a specific region or locality or in certain business sectors.

Time off on public holidays

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 are only taken as compulsory time off for people under the age of 18 (with some exceptions) and in the Haut-Rhin, Bas-Rhin and Moselle departments.

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.

A « bridge » day preceding or following a public holiday may be allowed by the company. This practice is not governed by any regulations. Bridge days can be recovered.

Advice

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 not 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 favourable arrangements in the collective agreement. However, if the statutory working hours are exceeded, employees benefit from extra pay for overtime.

Hours recovered for a « bridge » day are normal working hours worked at a later date; they are paid at the normal rate without an increase.

Information

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 in establishments and services that have to continue operating.

- Employees working on 1 May are entitled in addition to their usual salary to an amount equivalent to this salary,
- Collective agreements may also provide for a day-off in compensation.

Sanction

Failure to comply with the obligations relating to 1 May is penalised by a 4th category fine (amount page 77), multiplied by the number of employees involved.

Public holidays and paid leave

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 that is worked in the company, it is taken into account as paid leave.

Advice

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 supporting independence for elderly or disabled persons.

It is an additional day of unpaid work for employees.

The solidarity day can be fulfilled :

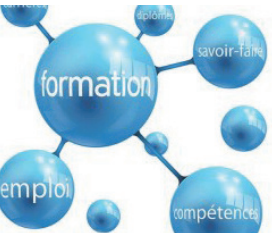
- On a public holiday, previously not worked, other than 1 May, or
- According to any other method by which the 7 hours previously not worked can be worked.

Information

The terms applicable to working on the « journée de solidarité » are determined by company agreement or otherwise by the sector agreement. Failing a collective agreement, they are determined by the employer, after consultation of the social and economic committee, if there is one.

Sheet 28

Professional development



What you need to know :

All companies, regardless of their size, are required to offer their employees training and to help finance professional development. The « Avenir professionnel » act of September 2018 implemented a partial reform of professional development from 1 January 2019.

Company's training obligation

Employers must ensure their employees are suited to their post and ensure their continued capacity to perform a specific role, given changes in roles, technologies and Define your training strategy : priorities, needs of the company, employees' projects... organisations. They can propose training to develop skills and allow access to different levels of professional qualification.

All the company's training initiatives are included in its skills development plan. When an employee participates in training, this is classed as the normal performance of the employment contract.

Information

Define your training strategy : priorities, needs of the company, employees' projects...

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 the *opérateurs de compétences* (OPCO) [skills agencies] 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. Measures to gradually increase the rate of the contribution apply when the company crosses the threshold of 11 employees for the first time.

Companies with less than 50 employees can obtain funding from *opérateurs de compétences* to implement their skills development plan.

Information

The « opérateurs de compétences » (OPCO) replace the « organismes collecteurs paritaires agréés » (OPCA) from 1/01/2019.

In 2021 at the latest, the contribution to professional development will be collected by URSSAF.

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. This review is used as the basis for an annual assessment of the employee's professional development. A company agreement, or otherwise a sector agreement, may stipulate a different frequency of meetings.

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 may be brought forward by the employee.

Sanction

In companies with at least 50 employees, the employer must pay an additional payment into the personal training account if it fails to fulfil its obligation to perform regular career reviews.

Personal training account

Everyone is entitled to a personal training account (PTA) when they start working life. It is attached to the individual concerned and is retained when he/she changes employer or is unemployed. It ends upon retirement.

Employees are free to use their PTA to complete qualification-based training. The law defines the training programmes eligible for the PTA.

Until 31/12/2018, the balance of the PTA was in hours. From 1/01/2019, it is credited in Euros. For an employee with working hours of half the statutory working hours or more over the whole year, the PTA 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 hours recorded in the PTA as of 31 December 2018 are converted into Euros at the rate of €15 per hour.

The PTA is managed technically and financially by the *Caisse des dépôts et consignations*, which will pay the costs of training undertaken by employees. On a transitional basis, in 2019, these costs will be paid by the *opérateurs de compétence* (OPCO).

The PTA is now integrated into the *compte personnel d'activité* (CPA) [personal activity account].

Information

Employees must activate their personal training account on the site www.mon-compteactivite.gouv.fr.

Advice

Ask us : some employees can benefit from an increase in their entitlements credited to the PTA.

The professional PTA

This replaces the *congé individuel de formation* (CIF) [individual training account] from 1/01/2019. The transitional professional PTA is a specific way of using the PTA allowing employees to take certifying training with the aim of changing jobs.

Advice

Ask us : for the certain employees no length of service is required.

It concerns employees with a length of service of at least 4 months, consecutive or not, 12 months of which in the company, regardless of the type of successive 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.

Employees must have their professional transition plan approved by the *commission paritaire interprofessionnelle régionale* which manages the PTA (training costs, pay, business expenses...).

Provision of information to staff representatives

Every year, the works council (or if there isn't one, staff representatives or the social and economic committee when it is set up) must be informed and consulted on the professional development strategy and the skills development plan as well as the implementation of training & career reviews.

Sheet 29

Prevention of hazards in the work place

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 work place accident or occupational illness. They must therefore implement safety, awareness and training measures and put in place an appropriate organisation and methods to prevent hazards in the work place.

Risk assessment

Information *A risk assessment must consider how the impact of exposure to the hazards concerned differs according to gender.*

A risk assessment consists of 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 report* » and may, where necessary, result in the implementation of specific safety measures.

Risk assessment report

A risk assessment report is compulsory in all companies irrespective of their size or business. It must include a list of risks identified in each work unit. It must be regularly reviewed, at least once a year and when a change is made (new risk identified, change in equipment...).

Information *Specific details must be included for the assessment of occupational health risk factors.*

The risk assessment report must be made available to employees, employee representatives, the company doctor and the health & safety inspectorate.

If this document is not produced or reviewed as required, the fine stipulated for class 5 offences is applied (amount p. 77).

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 solve 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 which are recorded in a special register.

Safety officer

All employers must appoint one or more competent employees who assume responsibility for the company's work place health and safety activities. If the company does not have the resources internally, it can call on outside agencies (DIRECCTE, CARSAT, ANACT, OPPBTP...).

Information *The appointment of a « safety officer » does not release the employer from its liability regarding safety in the company.*

« The occupational prevention account » (C2P)

All employers must monitor employees exposed to certain « hardship » risk factors which exceed 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.

Points are added to the employee's account on the basis of the employer's declarations. This account is used by the employee to finance training, a transition to part-time or early retirement. The C2P is now integrated into the personal activity account (CPA).

The C2P is funded and managed by the work place accidents and occupational illnesses section of the *Caisse nationale d'assurance maladie* [national health fund].

Advice

Ask us about the methods for assessing « occupational health risk » factors.

Sanction

Companies with at least 50 employees of which at least 25 % are exposed to occupational health risk factors or with a certain rate of work place accidents/occupational illnesses, must sign a company agreement relating to the prevention of «hardship » risks.

First aid at work

With the advice of the company doctor, the employer must organise a system whereby emergency care can be administered to employees who are involved in an accident or become ill. This involves in particular : implementing procedures which are to be followed in an emergency until the 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

Organising medical examinations is part of the employer's safety obligations :

- For new employees : initial medical or fitness for work exam,
- During a contract : medical examinations at a frequency set by the company doctor,
- Back-to-work medical examinations after maternity leave or an absence due to occupational illness, or for any absence of at least 30 days when this is due to an accident at work or a non-occupational illness.

Information

An employee can only return to work after a period of suspension after the back-to-work medical.

Penalties

Failure of an employer to fulfil its safety obligation constitutes negligence. If an employer does not adopt adequate safety measures, he may be ordered to pay compensation to the employee affected.

Any employee can claim the termination of his/her employment contract when the employer has not fulfilled his safety obligations, such claim then having the effects of unfair dismissal.

Sanction

An employer has an absolute obligation in relation to safety.

Sheet 30

Teleworking

What you need to know :

Teleworking allows employees to work outside company premises, using communication tools.
This form of working can be arranged when the employee is hired or subsequently, in accordance with certain rules. Teleworking employees benefit from specific guarantees. The provisions relating to teleworking were reorganised by orders on the 2017 employment law reform in order to facilitate use of this method.

Definition

Teleworking is a way of organising work whereby an employee can carry out work that would ordinarily be carried out in the employer's premises outside said premises, on a voluntary basis, using communication tools.

Teleworking may be regular, for all or part of the week, or occasional. It is voluntary and reversible for the employee and the employer.

Information

Some employees may wish to adopt teleworking in order to achieve a better work/life balance. It can be a factor of motivation and appeal for employees.

Implementation

Teleworking 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 teleworking, they formalise their agreement by any appropriate means.

Information

Drafting a clause in the employment contract or an addendum to the contract is no longer required for teleworking.

Organisation of work

The collective agreement or policy established by the employer stipulates :

- The conditions of switching to and stopping teleworking,
- The terms under which the employee accepts teleworking conditions,
- The terms under which working hours are monitored or workload regulated,
- he determination of the time periods during which the employer can usually contact the teleworking employee,
- The terms under which disabled workers can access an organisation where teleworking is adopted.

Advice

Ask us about the clauses of the agreement or the policy best suited to your company, particularly those relating to the reimbursement of costs resulting from teleworking.

Obligations of the employer

An employer who refuses to allow an employee to benefit from teleworking 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 refusal must be based on an objective and non-discriminatory reason relying on considerations relating to the company's interests.

The employer informs the employee of any restriction on the use of computing equipment or tools or electronic communication services and the penalties applicable in the event of failure to respect these restrictions.

The workload of teleworkers 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 teleworkers.

Information

An accident occurring in the teleworking location while the teleworker is performing his/her work is assumed to be a workplace accident.

Status of teleworker

Teleworkers are employees of the company. They therefore benefit from the same individual and collective rights as all employees.

Teleworkers have priority for occupying or resuming a non-teleworking post corresponding to 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 teleworker post does not constitute grounds for terminating the employment contract.

Teleworkers benefit from meal vouchers under the same conditions as employees working on company premises.

Information

The rules protecting home workers are applicable to teleworkers.

Use of teleworking 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 teleworking can be considered a necessary adjustment of the job in order to enable the continuity of the company's business and guarantee the protection of employees. In this case, teleworking may be imposed.

Sheet 31

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 the law 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 which relates 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.

Information

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 performs his work abroad, his 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.

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. In certain cases a local employment contract will be signed. It will then be necessary to decide how to deal with the initial employment contract signed in France.

Advice

Ask us about the clauses to be integrated into an international employment contract.

Information

The employer must ensure that the employee has the visas and/or work permits required by the legislation of the employing country.

Information

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.

The end of the assignment abroad

The assignment abroad can end for different reasons : expiry of stated term, cancellation 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 ensure his/her repatriation if he/she is laid off by the subsidiary and find him/her a new job compatible with his/her previous duties.

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 is less than 2 years. He/she 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 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 periods 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.

Information

Prior to the posting, the employer must obtain the A1 form « Statement concerning legislation applicable » from the « caisse primaire d'assurance maladie » [health insurance provider].

Social security protection of expatriated employee

When an employer based in France sends an employee abroad under conditions not constituting posting (see above), the employee is an expatriate for social security purposes. He/she therefore ceases to come under the French social security system and must be subject to the system of the employing country in which the contributions will be paid. If he/she wishes to improve his/her social security entitlements, the employee can voluntarily join the *Caisse des français à l'étranger (CFE) [fund for French nationals working abroad]*.

The French company must register its employees expatriated outside the EU, the EEA and Switzerland with the *pôle emploi* 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 expatriate employee ceases to benefit from the company's employee benefits scheme. Certain collective agreements may impose specific coverage.

Advice

Ask us : if the employee works in several EU or EEA states or in Switzerland, the employee is considered 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.

Sheet 32

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, and specific rules are applicable to each situation.

Resignation

Information *The employee must express his/her wishes in writing and it is recommended to confirm receipt.*

Initiated by the employee, this is not subject to any specific procedure but must be in accordance with the employee's genuine and unequivocal wishes. Otherwise, it might be requalified as dismissal.

Resignation does not have to be accepted or refused by the employer.

The date of resignation marks the starting point of the notice period.

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 directly pertaining to the employee, whether based on misconduct or not,
- Dismissal for economic reasons not inherent in the employee him/herself but justified by the company's position. Dismissal for economic reasons may be individual or collective.

Whatever the reason for the dismissal, the employer must follow a strict procedure, which includes in particular : invitation to a preliminary interview, interview, delivery of dismissal 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 partially or totally dispense the employee from working his/her notice. However, it must then maintain the salary the employee would have received if he/she had working 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 providing proof of a minimum 8 months' length of service, the statutory severance pay is at least a 1/4 month's salary per year of service for the first 10 years and a 1/3 month's salary per year of service after that.

In the event of a dispute, a settlement agreement may be signed.

Sanction *Unjustified grounds for dismissal may result in the payment of significant damages. Note that the grounds can now be specified after the notice of dismissal.*

Advice *Ask us before you start a dismissal ; the procedures are complex and specific to each type of dismissal.*

Information *N.B.: some employees have special protection from dismissal.*

Retirement

Advice *Ask us about the procedures and payments.*

This can be initiated by the employer or the employee. (refer to Fact Sheet 33).

Constructive dismissal

The employee can use constructive dismissal as the basis of the termination of his/her employment contract due to facts attributed to his/her employer.

If the facts are serious enough, the termination is considered to take the form of unfair dismissal. Otherwise, it is a resignation.

Information

There is now a schedule of compensation in the event of dismissal without due cause.

Individual termination by agreement

Advice

Ask us about the procedure individual for 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 three stage procedure :

- One or more interviews between the parties,
- The signature of an agreement between the employer and the employee which defines the terms of the termination, including in particular the severance pay and date,
- The recognition of the agreement by the *Direction régionale des entreprises, de la concurrence, de la consommation, du travail et de l'emploi* (DIRECCTE), which allows the employee to receive unemployment benefits.

Information

The payment made in respect of individual termination by agreement is at least equal to the statutory severance pay. It is subject to the forfait social of 20 %.

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 relevant authority. Only the employer can initiate this mode of termination.

An employee applying for collective termination by agreement gives his/her consent in writing. Upon acceptance of the employee's application, the employment contract is terminated by mutual agreement.

The employee receives severance pay and is entitled to unemployment benefits.

Advice

Ask us about the content of the agreement on collective termination by agreement.

Documents to be given to the employee on termination of employment contract

Sanction

The loss sustained by an employee further to the late delivery of these documents, can lead to payment of damages.

Certificate of employment : it mentions in particular the employee's right to the maintenance of the « health » and « employee benefit » cover he/she benefited from in the company.

Declaration for the *Pôle emploi* (French employment agency). A duplicate of this declaration must be sent directly by the employer to the *Pôle emploi*.

A final statement which must indicate in detail all the sums paid on termination. It can be contested within 6 months after signature. After that, it represents full and final settlement by the employer for the sums mentioned.

Sheet 33

Retirement or pensioning off

What you need to know :

The employment contract of an employee who reaches retirement age is not automatically terminated. However, the employer or the employee can take the initiative to terminate the contract : this is pensioning off in the first case and retirement in the second. The conditions and consequences of these two types of termination are different.

Principle of pensioning off

Sanction

Pensioning off a protected employee requires the authorisation of the employment inspectorate.

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 according to his/her date of birth between 65 and 67).

The employee can ask for this to be deferred until the age of 70.

Pensioning off procedure

Three months before the day when 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 benefit from his/her retirement pension.

If the employee replies within one month stating that he/she does not intend to retire, the employer cannot pension off this employee for the year after the date of his/her birthday.

This procedure shall 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 statutory notice required for redundancy or, if it is more favourable, the notice stipulated by the collective agreement.

Sanction

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 pensioning-off payment which is equivalent to :

- The statutory severance pay : 1/4 of a month per year of length of service for the first 10 years, plus 1/3 of a month per year for the following years; or if it is more favourable, the pensioning-off 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 pay the URSSAF a contribution of 50 % of the payments made (statutory and collective agreement payments).

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 60 for employees born before 1 July 1951,
- Between 60 and 62 for employees born after 1 July 1951, according to their year of birth.

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.

Information

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 redundancy :

- 1 month for employees with at least 6 months' length of service,
- 2 months if the employee has at least 2 years' length of service.

Or the redundancy or retirement notice stipulated by the collective agreement if 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 set 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.

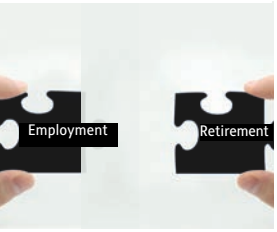
The payment is fully liable for social security contributions and income tax.

Sanction

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.

Sheet 34

Combined employment & 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 and pension system

A retirement pension can be fully combined with income earned from resuming work if :

- The beneficiary has claimed his/her retirement pensions with all the basic and supplementary pension plans he/she was covered by,
- The beneficiary has reached the age required to automatically obtain a full-rate pension (age progressively increased from 65 to 67) or the statutory age if he/she can benefit from a full-rate pension (statutory age increased progressively from 60 to 62).

This system covers pensioners 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.

Information

If an employee resumes work under the system of combined employment and pension, he/she is not entitled to any new benefits under any basic or supplementary pension plan.

Rules for salaried employees if the conditions are not met (see § 1)

In this case, when a pensioner under the general system resumes paid work, he/she can combine his/her salary with his/her pensions (base and supplementary) provided that :

- The sum of his/her new salary and pensions does not exceed the average salaries of his/her last 3 months 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 on which he/she claimed his/her pension and the resumption of work.

Sanction

If the salary / pension limit is exceeded, the payment of the pension is reduced accordingly.

Resuming paid work : formalities to be fulfilled

Within a month after the date of resuming work, the beneficiary must provide the following to the pension providers :

- A declaration certifying that he/she has started drawing all of his/her retirement pensions,
- Indicate the date of resuming 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 payment for the paid work that has been resumed but no supplementary pension is acquired.

Advice

Ask us about the documents to be provided to the pension providers.

Rules for non-salaried employees if the conditions are not met (see § 1)

Information

Resuming or continuing work must be declared to the pension providers within a period of one month.

In this case, combining employment and pension is possible under the following conditions :

- Continuing or resuming work must not provide earnings exceeding half of 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 company previously run.

Progressive pension

When an employee reaches the statutory retirement age less 2 years (cannot be less than 60 years of age) 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 progressive 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 a full-time equivalent basis.

Advice

Ask us about the methods of implementing this system.

Specific provisions relating to the type or low level of the work

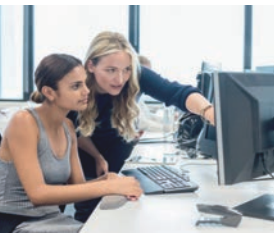
Advice

Ask us about the application of these specific provisions.

For certain activities, there are no conditions for combining with retirement pensions including : artistic activities, literary or scientific activities carried out as a side-line, consultations given occasionally, the duties of local elected representatives.

Sheet 35

Internships in a business environment



What you need to know :

Various legislation has been passed to improve internships regulations and differentiate them from employment contracts. Companies wanting to take students on internships must therefore ensure they comply with the different conditions and obligations stipulated by law, in particular to avoid the risk of the internship being reclassified as an employment contract. The regulations on internships are monitored by the Labour authority.

The internships concerned

Sanction

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.

An internship is a temporary period of time spent in a professional environment during which the student gains professional skills which 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, in order to: replace an employee in the event of absence, suspension of employment contract or dismissal, to perform a regular task corresponding to a permanent position, to deal with a temporary increase in activity or for a seasonal job.

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 academic advisor.

A tutor can only supervise three interns.

The internship agreement must include a number of compulsory clauses.

Sanction

If there is no agreement or the agreement is not properly drawn up, the internship may be reclassified as an employment contract.

Duration of internship

Information

The employer must list interns in a specific part of the employee register.

An intern cannot do more than 6 months' internship in the same company or organisation, in one or more internships, per academic year. The internship period is calculated on the basis of the actual time the intern spends in the host organisation.

Companies who host a series of interns in the same post under different internship agreements must observe an interval between internships of one third of the duration of the previous internship unless it was terminated by the intern.

Remuneration 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 salary is determined by the branch agreement or extended professional agreement; otherwise, the hourly salary is set at 15 % of the hourly maximum paid by social security, namely €3,75 for one hour of work. The host company must draw up a statement indicating how much 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 the 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.

Information

The intern benefits from meal vouchers and the payment of travel costs under the same conditions as the company's employees.

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 that exceeds the threshold. No contributions are due and no rights are established with regard to unemployment insurance and supplementary pensions for internships.

Sanction

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 that the intern would have received as an employee.

The status of the 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 as employees do.

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 indicates the length of the internship and, where applicable, the salary paid, as well as the procedure for validating the internship for pension purposes.

Advice

Ask us : special arrangements are applicable if an intern is hired at the end of the internship.

Questions/Answers on deduction at source on salaries

What you need to know :

The deduction at source is applicable to salaries paid since 1 January 2019.

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 the DGFiP on 5 or 15 of month M + 1 (based on the workforce). The account used for paying the deduction at source should be registered on the employer's professional space « 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 apply the rate sent by the office. The employee must send any claims relating to his/her rate to the tax office. 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 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 net taxable monthly income.

This situation applies in particular 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 (€624 as at 1/01/2019) is applied to the base of the deduction at source.

What does the employer have to do when hiring a new employee ?

When hiring a new employee, the non-personalised rate will be applied for the payment of the first salary since the employer will not have received the personalised rate via the DSN yet. However, in this case, the employer will be able to obtain its employee's personalised rate via a specific application, called TOPAZE, so it can be applied from the payment of the first salary. This procedure is optional for the employer.

Does the employee have to inform his/her employer in the event of changes 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 DNS.

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 ?

The salaries subject to the deduction at source are those on which income tax is due.

Therefore exempt income is not subject to the deduction at source, for example : exempt overtime up to €5,000, exempt apprentice salary up to the annual minimum wage...).

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 *Caisse primaire d'assurance maladie [public health insurance system]*, then it's the insurance provider in question that makes the deduction at source.

If the employer advances the daily benefits to the employee and gets them reimbursed by the CPAM (subrogation), then it's the employer that applies 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 limit for maternity leave or work place 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, penalty of 80 % in the event of deliberate withholding...).

The tax services will not claim against the employees since their salaries have already been deducted and they are not jointly and severally liable for paying the tax.

Is the employer now apprised of the tax payer's overall tax situation ?

No, the only information sent to the collecting employer is the average rate of taxation 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.

How does the employer inform the employee of the deduction at source made ?

Payslips must now mention : the base, the rate and the 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.

Staff management memo

What you need to know :

Quick reference guide to your key obligations as an employer based on your workforce 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.

General obligations (*)	Any employer	From 11 employees	From 20 employees	From 50 employees
Determination of collective agreement applicable	✔			
Posters to be displayed	✔			
Compulsory registers to be set up	✔			
Health and safety obligations	✔			
Election of social and economic committee		✔		
Obligation to employ disabled workers			✔	
Company rules and regulations			✔	
Implementation of employee profit-sharing				✔

(*) *The effective thresholds for certain obligations might change with the entry into force of the PACTE law.*

Hiring
Check the work permit of foreign employees
Draft the notice of hiring
Draft the employment contract and get it signed by the employee
Submit applications for pre-employment assistance
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 information notice on the policies
Complete the staff register
Follow up the end of the probationary period and implement appropriate actions
Send the employee information documents (collective agreements, employee benefits, employee savings, DSN, career & training review...)

Performance of contract	Organise and monitor working hours
	Organise paid holidays
	Manage and monitor business expenses
	Obtain the employee's written agreement to perform the specific fixed deduction for business expenses (specific to certain professions)
	Evaluate benefits in kind
	Reimburse home/work public transport costs
	Follow up end of fixed-term contracts and implement appropriate actions
	Declare work place accidents within 48 hours maximum
	Organise medical checks for resuming work after illness, maternity or work place accident
	Organise periodical medical check-ups
	Organise professional development reviews

Termination of contract	If the employee resigns, make sure you have a signed « resignation letter »
	Implement the redundancy or cancellation by agreement procedure
	Raise the non-compete clause if applicable
	Implement the portability of benefits
	Charge unsettled advances or down payments against the full and final settlement
	Give the employee the end of contract documents on the day he/she leaves
	Recover the 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.

Category of fine		Individuals	Legal entities
	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

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.

The limitation times vary according to the type of document. During these times, the relevant authority is able to carry out audits and the employee is able to bring industrial tribunal proceedings.

Type of document	Statutory time for keeping documents	Suggested time for keeping
Acknowledgement of receipt of notice of hire	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 slip breaking down profit-sharing and incentives	20 years Art. D. 3313-11 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 redundancy, termination by agreement	5 years after the end 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 contract	3 years Art. D. 3171-16 of the employment code	5 years
Records of hours of employees and on-duty hours and compensation paid	1 year Art. D. 3171-16 of the employment code	5 years
Employment inspectorate observation or notice. Verification and control of health, safety and working conditions (CHSCT). Declaration of work place accident to the *caisse primaire d'assurance maladie*	5 years Art. D. 4711-3 of the employment code	

Useful websites

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

Social security contributions

- urssaf.fr
- pole-emploi.fr
- net-entreprises.fr
- agirc-arrco.fr
- dsn-info.fr

Deduction at source

- economie.gouv.fr/prelevement-a-la-source

Notice of hiring

- due.urssaf.fr

Training

- alternance.emploi.gouv.fr

Elections of staff representatives

- elections-professionnelles.travail.gouv.fr

Professional prevention account

- compteprofessionnelprevention.fr

Compte personnel d'activité (CPA) - *Compte personnel de formation* (CPF)

- moncompteactivite.gouv.fr

Working abroad

- cleiss.fr
- cfe.fr

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Edition 2019