

January 2017

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1. New developments concerning leave

A bill was introduced in the Chamber of Deputies last September 13th concerning leave for personal reason, post-natal leave and leave for family reasons.

[For more details on leave for personal reason](#)

Known more generally as “extraordinary leave”, this leave can be taken by employees in addition to their ordinary leave, when a family event requires their presence and they can therefore not report to work.

The bill introduced last September 13th provides a certain number of changes concerning leave:

| Event | Before | After |
|---|---------------|---------------------------------|
| Military service enlistment | 1 day | Abolition |
| Death of a relative in the second degree of the employee or his or her spouse or partner | 1 day | 1 day |
| Welcoming a child under 16 for adoption | 2 days | 5 days |
| Birth of a child (for the father) | 2 days | 5 days |
| Marriage or declaration of partnership of a child | 2 days | 1 day, but only for the wedding |
| Moving | 2 days | 2 over a period of 3 years |
| Death of a spouse or partner | 3 days | 3 days |
| Death of a parent in the 1 st degree of the employee or his or her spouse or partner | 3 days | 3 days |
| Marriage of the employee | 6 days | 3 days |
| Declaration of partnership of the employee | 6 days | 1 day |

The length of leave granted for moving is still two days, but this leave will henceforth be granted only once every 3 years to avoid any abusive claim by employees. The text nonetheless provides an exception in case of moving for professional reasons.

The extraordinary leave must be taken at the time when the entitling event occurs and must necessarily be taken right after the event. It cannot be postponed on the ordinary leave without the employer's consent.

An exception is nonetheless provided when the leave is granted for the birth of a child or for welcoming a child for adoption. In the first case, the leave may be taken within 10 days from the birth of the child or from the time that the child leaves the hospital; in the second case, within 10 days from the adoption of the child, except if leave for welcoming purposes has already been granted.

[For more details on post-natal leave](#)

The bill proposes a general extension of this leave to 12 weeks, thereby eliminating the distinction between breastfeeding and non-breastfeeding mothers. Similarly, the condition of premature or multiple births which previously led to a 4-week extension of the post-natal leave no longer has any impact.

[For more details on leave for family reasons](#)

The bill introduces a new system that gives parents greater flexibility. It actually provides for a number of days of leave that can be used per age bracket of the child.

- Before the child turns 4: 12 days of leave
- Between the age of 4 and the day before the child turns 13: 18 days of leave
- Between the age of 13 and 18: 5 days of leave, but only if the child is hospitalised.

The number of days of leave is indicated per child and attributed for an age bracket (and not per year). This means that the 12 days of leave for a child under 4 can be used at any time during the child's first four years (and no longer two days per year).

Transitional provision: Days of leave for family reason taken already at the time of the entry into force the future legislation on the basis of former legal provisions in the age bracket concerned are deduced from the maximum number of days of leave for family reason that can be granted in the age bracket in question.

2. New thresholds for wage withholding/garnishment

Since 1 December 2016, new rules apply on wage withholding/garnishment. A Grand Ducal Regulation of 27 September 2016 has actually redefined thresholds as of which an employee can have part of his or her net pay withheld to recover a debt (for example: reimbursement of alimony, employee ordered by the justice of the peace to pay a debt or the application of a garnishment).

[To find out more](#)

Wage withholding is a judicial process that enables a creditor to obtain payment of a sum owed by the salaried debtor by blocking part of his salary directly with the employer.

Wage garnishment on the other hand is a contractual commitment under the terms of which the employee allocates part of his pay by way of guarantee to reimburse a contracted debt.

Whether wage withholding or garnishment, the debtor's monthly salary is divided into 5 tranches for which the withholding creditor or assignee can obtain the reimbursement of his claim.

| Tranches | Former thresholds | New thresholds on 01 December 2016 | Percentage that can be withheld or garnished |
|-----------------|--------------------------|---|---|
| 1 | €0 to €550 | €0 to €722 | 0% => May not be garnished or withheld |
| 2 | €550 to €850 | €722 to €1115 | 10% |
| 3 | €850 to 1,050 | €1115 to €1378 | 20% |
| 4 | €1,050 to 1,750 | €1378 to €2296 | 25% |
| 5 | Over €1,750 | Over €2,296 | 100% => May be garnished or withheld without limit |

Henceforth, an employee may not be subjected to wage withholding if he earns less than €722 net per month (compared with €550 previously).

3. The cost of work-related disability for the employer

By way of reminder, in the event of an employee's incapacity for work, the employer has the obligation to keep paying the employee's full salary for the first 77 days of disability. The employer will get 80% of that burden reimbursed by the mutual benefit insurance. Beyond these first 77 days, the National Health Fund takes over from the employer and compensates the employee in case of work-related disability.

[*For more details*](#)

According to the principle of “wage continuation,” in the event of an employee’s incapacity for work because of occupational accident or illness, the employer is required to keep paying that employee’s full salary for the first 77 days of work-related disability.

These are calculated in terms of calendar days over a sliding reference period of 12 successive months. Once the number of days is reached, the employee’s salary will be assumed fully (100%) by the National Health Fund, and the employer will therefore no longer pay the salary of the person unable to work.

In reality, it is only as of the month following the occurrence of that 77th day that the National Health Fund will start paying for the employee, and will inform the employer accordingly in writing. The employer therefore need not worry about the calculation of the 77 days which is done automatically by the fund.

When a person comes under the purview of the National Health Fund, s/he will be paid by the latter only for the days s/he is sick. The employee must then normally be paid by the employer for days when s/he actually comes to work.

The National Health Fund draws up a statement of work-related disabilities based on the monthly declarations of disability by the employer as well as the medical certificates it receives. It is therefore necessary to proceed rigorously with all the notifications of illness. On this basis, the National Health Fund informs the employer when an employee falls under its purview and when s/he reverts to the employer’s purview.

It is worth noting that the days of illness during which the employee is in charge of the National Health Fund are not counted in the 77 days. Thus, it is well conceivable that an employee reverts to the employer’s purview even though he had been ill whilst under the purview of the National Health Fund, because the number of 77 days booked over a sliding period of 12 months would no longer be reached.

The 77 days are counted individually for each employer. So in the event of a change of employer, the tally is reset to zero.

When the National Health Fund compensates the employee directly, it assumes the highest basic salary in the three months prior to the commencement of payment of compensation. Remuneration in kind such as accommodation provided by the employer, company car or meal vouchers, is not taken into account.

During the period of continued remuneration when the employer is required to keep paying the full salary of the employee with work-related disability (i.e. before the employee falls under the purview of the National Health Fund), the Employers’ Mutual Insurance automatically reimburses the employer for 80% of the overall wage burden (gross remuneration + employer’s charges).

On the basis of monthly statements of periods of work-related disability and gross remuneration, the Joint Social Security Centre (Centre Commun de la Sécurité Sociale - CCSS) calculates automatically the amounts to be reimbursed to the employer. This reimbursement will be carried out by means of a social security invoice referenced “mutual insurance reimbursement.” This amount will be credited to the Joint Social Security Centre’s invoice and offset with contributions due for the various risks.

By way of exception, work-related disabilities that occurred during the first 3 months of the trial period, leaves for family reason, and family hospice leave are reimbursed fully (100%) by the Employers' Mutual Insurance.

4. Indexing of wages and increase of the minimum social wage

The next indexing of wages and the increase of the minimum social wage took place on January 1st, 2017.

[To find out more](#)

Following this indexing, all salaries and wages governed by law, collective labour agreements, or individual contracts have been increased by 2.5%. The new index used in the mobile salary grid has been increased from 775.17 to 794.54 as of January 1st, 2017.

This indexation also applies to the minimum social wage, which had simultaneously been increased by 1.4% on 1st January 2017.

This total increase of the minimum social wage represents approximately a gross gain between 900 € and 1100 € year for the employees concerned, that will be reflected in the salary cost for the employers.

By way of reminder, every employer must comply with the applicable minimum social wage according to the employee's qualification.

| MINIMUM SOCIAL WAGE | 2016 | 2017 |
|---------------------|-----------|------------|
| Unskilled workers | €1,922.96 | 1,998.59 € |
| Skilled workers | €2,307.56 | 2,398.30 € |

5. Legal holidays in 2017

This year, 2017, is no exception, with 10 legal holidays on the calendar.

It is important for the employer to be able to keep track of the legal holidays and compensatory leave that an employee is entitled to during this year.

[For calendar year 2017](#)

| | |
|----------------------------|-------------------------------|
| Sunday, 1 January 2017 | New Year |
| Monday, 17 April 2017 | Easter Monday |
| Monday, 1 May 2017 | Labour Day |
| Thursday, 25 May 2017 | Ascension |
| Monday, 5 June 2017 | Whit Monday |
| Friday, 23 June 2017 | National holiday |
| Tuesday, 15 August 2017 | Assumption |
| Wednesday, 1 November 2017 | All Saints' Day |
| Monday, 25 December 2017 | Christmas |
| Tuesday, 26 December 2017 | St Stephens' Day (Boxing Day) |

If a public holiday falls on a workday (Monday to Saturday) on which the employee would not have to work or on a Sunday, the employee will be entitled to 1 day compensatory leave which must be granted within 3 months.

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