

## Rules applicable to work on Sundays in retail outlets

The *Inspection du Travail et des Mines* (ITM) [Inspectorate of Labour and Mines] conducted a number of inspections recently geared in particular to compliance with the rules governing work on Sundays. For the sake of greater clarity, herewith a reminder of the rules currently in force

### Important point

The rules on the opening hours for shops do not affect the rules governing work by employees on Sundays.

Store opening hours are governed by the Act of 19 June 1995 that regulates the closing times of retail outlets in commerce and crafts, while the rules on Sunday work are set out in the labour code.

### I. Opening hours

The law currently authorizes any retailer to open his store from **6:00 am to 1:00 pm on every Sunday of the year.**

Temporary exemptions may be granted for major economic reasons by the Minister for Small and Medium-sized Businesses, **but the working hours of employees on these days remain capped at 4 hours.** These derogations must however be the subject of a **collective request** from a commercial union to open until 9:00 pm at the latest. Therefore, a company cannot make this request individually.

### II. Rules on Sunday work

#### Working time

Given the inconsistency between these two texts, there was a certain tolerance on this matter in practice. The vast majority of the retail trade was consequently not hindered by these provisions. Following the recent numerous inspections by the Inspectorate of Labour and Mines (abbreviated as ITM in French), it is imperative to **limit Sunday work to 4 hours per employee.**



The Labour Code provides for **2 exceptions** to the rule of 4 hours maximum work on Sundays, however. A Grand-Ducal regulation may accordingly provide to:

- **Extend this time to a maximum of eight hours for six Sundays per year at most**, where particular needs should so require;
- **Grant temporary or permanent exemptions** from the prohibition of Sunday work, when the Sunday closure of the retail outlet is likely to jeopardize its normal operation because of the scope of its Sunday sales and the impossibility to transfer customers in sufficient numbers to other days of the week, but only for outlets in locations to be determined by a Grand-Ducal regulation.

**These two Grand-Ducal regulations were never adopted, however!**

This situation consequently poses a major organizational problem at present. It should be noted that discussions are currently underway with the ITM and the Ministry of Labour. Until a satisfactory final solution can be found, **an exemption may be applied for from the Minister for Labour pursuant to Article L.231-4 of the Labour Code.**

**Please do not hesitate to contact us for a model letter of request for exemption.**

### **Role of the staff delegation**

It should be noted that any retail outlet that has employee representation and wishes to have its employees work on Sundays pursuant to Article L. 231-4 of the Labour Code must seek the prior opinion of the main establishment representative(s) concerned. The employer is also required to submit a copy of this opinion to the ITM (Article L. 231-9 of the Labour Code).

### **Remuneration**

Work on Sundays entitles workers to extra pay AND compensatory rest;

- 70% extra pay;
- Compensatory rest for a full day if the working time exceeded four hours;
- Compensatory rest for half a day if the working time did not exceed four hours.

It should be noted that if work on Sunday is concurrently overtime work, then the 40% overtime pay is also due.



### Formalities to be fulfilled

In addition, the employer is required to record the hours worked on Sundays in the special register, together with the remuneration paid for work on Sundays (to be produced during a possible ITM inspection).

### Penalties in case of non-compliance with the provisions

Failure to comply with the labour law rules governing work on Sundays shall be punishable by a fine of €251 to €5,000 and imprisonment of eight days to one month or one of these penalties only (Article L. 231-11 of the Labour Code).

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