

IMPORTANT CHANGES IN EMPLOYMENT CONTRACTS AND WORKING CONDITIONS

The Law of 24 July 2024 amending the Labour Code to transpose Directive (EU) 2019/1152 on transparent and predictable working conditions in the EU will enter into force on 4 August 2024 (the "**Law of 24 July 2024**"). It provides for important changes in employment contracts and working conditions, which require immediate actions from employers.

The Directive (EU) 2019/1152 was adopted to promote more transparent and predictable working conditions for workers in the EU considering the significant changes that the labour market has undergone in recent years. Thus, the Directive provides for measures to improve workers' access to essential employment information, to guarantee new minimum employment requirements, and to ensure the strict application of these rules in national law.

In concrete terms, the transposition of this Directive into Luxembourg employment law by the Law of 24 July 2024 will mainly involve the changes set out below for employees¹.

1. NEW INFORMATION TO BE INCLUDED IN EMPLOYMENT CONTRACTS

The Law of 24 July 2024 foresees the obligation of the employer to provide the employees with additional information in the employment contract (e.g., terms and conditions relating to the performance of overtime and its remuneration, procedure to be followed in the event of termination of the employment contract, conditions of application of the trial period, etc.)

In certain situations, when the mandatory information has not been stipulated in the employment contract before the employee's first day of work, the employer can communicate them to the employee at a later date². This also applies to certain mandatory information to be provided in fixed-term employment contracts.

The list of information which the employer must communicate in writing to the employee, in case of work performed outside Luxembourg for at least four consecutive weeks, is also extended (this information includes notably the

Key issues

- The Law of 24 July 2024 will enter into force on 4 August 2024.
- It provides for new obligations for employers and strict sanctions in the event of failure to comply with the statutory requirements regarding transparent and predictable working conditions.
- These new obligations include: new information to be provided to employees in employment contracts (open-ended and fixed-term contracts) and in documents to be delivered to employees in case of temporary work abroad, limitations in the duration of the trial period in fixed-term contracts, procedures in case employees request the conversion of their fixed-term contract into an open-ended contract or their part-time into a full-time contract (and the other way round), prohibition of exclusivity clauses and free of charge mandatory trainings.
- It is now time to review templates of employment contract and to get ready for employees' requests to receive the new mandatory information or to convert their employment contracts (fixed-term to open-ended, part-time to full-time or the other way round).

¹ The Law of 24 July 2024 also includes provisions applying to apprentices, temporary workers, students and pupils, and workers of the public sector, which are not presented in this briefing.

² until the seventh calendar day of work or within one month, depending on the information concerned.

country(ies) where work will be performed, the remuneration to which the employee is entitled under the law of the country(ies) concerned, etc.)

The obligation to provide the new information required under the Law of 24 July 2024 applies to employment contracts posterior to the entry into force of the law. However, existing employees may request their employer to deliver to them a document compliant with these new information requirements.

Finally, under the Law of 24 July 2024, the employment contract can be transmitted to the employee in electronic form, provided that the employee has access to it, that it can be recorded and printed and that the employer keeps proof of its transmission or receipt.

2. TRIAL PERIODS IN FIXED-TERM CONTRACTS

The Law of 24 July 2024 sets up rules governing the duration of trial periods in fixed-term employment contracts ("FTCs"), which will need to be between two weeks (minimum) and one quarter of the duration of the contract or the minimum duration for which it is concluded (maximum).

3. CONVERSION OF FIXED-TERM CONTRACTS INTO OPEN-ENDED CONTRACTS OR PART-TIME CONTRACTS TO FULL-TIME CONTRACTS (AND THE OTHER WAY ROUND)

At the end of the trial period, an employee who has been working for the same employer for at least 6 months may request, once every 12 months, the following measures:

- to convert their FTC into an open-ended contract;
- to change their working duration from part-time to full-time, or to full-time to part-time.

If the employee submits one of these requests, the employer must respond within one month of the request, by amending the employment contract by mutual agreement of the parties (if the employer accepts the request) or by stating precisely and in writing, the reasons for its refusal.

Finally, in the absence of a written document providing that the contract is a part time contract, the employee is presumed employed on a full time basis.

4. PROHIBITION OF "EXCLUSIVITY" CLAUSES

Any clause that prohibits an employee from exercising another employment relationship with one or more employers outside the normal working hours agreed in the employment contract ("exclusivity clause") is null and void. The same applies to any clause or act whose purpose is to subject the employee to detrimental treatment for this reason.

Nevertheless, this prohibition does not apply when the combination of two employments is incompatible due to objective reasons, such as occupational safety and health, the protection of business confidentiality, the integrity of public function, or the prevention of conflict of interest.

5. ACCESSIBILITY AND FREE OF CHARGE OF COMPULSORY TRAINING

When the employer is required by virtue of the law, regulatory, administrative or statutory provisions, or certain collective agreements, to provide training to employees for the performance of the work for which they are employed, this training must be provided free of charge to the employees during their working hours and the hours devoted to this training must be considered as actual working time.

6. MEASURES TO ENSURE COMPLIANCE WITH OBLIGATIONS RELATED TO TRANSPARENT AND PREDICTABLE WORKING CONDITIONS

The Law of 24 July 2024 creates new criminal offences for the employer³ in case of failure to comply with the following obligations:

- the obligations to provide the employees with mandatory information on working conditions as required by the Labour Code;
- the obligation to apply the new statutory procedure and rules to answer a request to convert an FTC into an open-ended contract or a part-time into a full-time employment (or the other way round).

In addition, in case of failure to communicate the required contractual information, the employee may apply for an injunction against the employer to receive the outstanding elements.

Finally, the Law of 24 July 2024 prohibits any adverse treatment or retaliation for protesting, responding to a complaint, or exercising a remedy to enforce any rights under the Labour Code, or for having testified to such acts. Any provision contained in a contract, an individual or collective agreement or a company's internal regulations that would be contrary to this prohibition is null and void.

IMMEDIATE ACTIONS TO TAKE

Employers are recommended to review their templates of employment contract to ensure that they are compliant with the new statutory provisions.

In addition, employers need to be ready to answer possible requests of employees to receive, in writing, the new employment contractual information or to convert their employment contract into a different form of contract (e.g. FTC into an open-ended contract or part-time into a full-time contract).

If you need assistance, our employment team is at your disposal to facilitate the implementation of these new requirements and to answer any questions you may have.

³ These criminal offenses are punished by a fine ranging, for physical persons, from EUR 251 to EUR 5,000 per employee, and from EUR 500 to EUR 10,000 per employee for legal persons.

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