MEMENTO

OF THE EMPLOYER 1

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OUTPLACEMENT: SITUATION AT 1 JANUARY 2016

In some circumstances, dismissal of an employee may give rise to a specific obligation for the employer. The employer must offer the dismissed worker an outplacement, whose purpose is to help the worker find another (salaried) job or to start a self-employed activity. Below is a reminder of the main principles of these regulations..

01 GENERAL OUTPLACEMENT SCHEME

The Single Employment Status Act generalised, in certain circumstances and since 1 January 2014, the right to an outplacement, aimed at helping dismissed workers to re-enter the labour market as soon as possible.

1. THE CONCEPT OF OUTPLACEMENT

"Outplacement" means a set of services and advice provided to individuals or groups by a third party called a "service provider", at the employer's expense, in order to enable workers to find a job as soon as possible or develop a self-employed professional activity.

It therefore covers one or several of the following services and advice:

- psychological guidance;
- establishing a personal and job skills/experience assessment and/or assistance in developing and implementing a job-seeking campaign;
- assistance in negotiation a new employment contract;
- assistance in integrating into the new working environment;
- logistical and administrative assistance.

2. WORKERS CONCERNED

PRINCIPLE

The general outplacement scheme covers all workers bound by an employment contract, whether their employer is in the private or public sector.

However, the measure does not cover those bound by an apprenticeship agreement (apprenticeship agreement or a "small firms and independent traders" work placement contract; industrial apprenticeship contract) or by an employer-based individual training contract (IBO – PFI – FPI).

REQUIREMENTS FOR WORKERS RECEIVING OUTPLACEMENT

The workers mentioned above must nevertheless meet the following conditions:

- have been dismissed;
- and have received a notice period of **at least 30 weeks** or a severance payment corresponding either to the duration of a notice period of at least 30 weeks, or to the remaining portion of such period of at least 30 weeks.

It must be noted that only **dismissed workers** (which implies unilateral termination of the contract by the employer) are entitled to outplacement. Said outplacement does not apply for workers who resign or whose contract has come to an end, either by mutual agreement or for reasons of force majeure, or because the agreed term has been reached (assumption of a fixed-term contract) or the completion of the work (assumption of a contract for clearly defined work).

EXCLUDED WORKERS

The entitlement to outplacement is not granted to workers dismissed:

- for serious reasons;
- as part of a restructuring and who already have an outplacement through an employment cell that the employer under restructuring was required to set up.

The three following observations must be made:

- The general outplacement scheme applies **regardless of the worker's age**, from the time that the worker is entitled to a notice period of 30 weeks at least (or a compensation of 30 weeks at least). A special outplacement scheme shall apply, however, for workers who, despite not being entitled to a notice period of 30 weeks at least, are over the age of 45 (see below).
- The general outplacement scheme is granted to dismissed workers, **regardless of their working time arrangements** (full time or part time), provided that they are entitled to a notice period of 30 weeks at least.
- Workers dismissed for the purpose of obtaining an unemployment scheme with employer's contribution (= early retirement) or for the purposes of taking a pension are not excluded as such from the general outplacement scheme. They are entitled to outplacement if the notice period notified to them is at least 30 weeks... as the notice period may be limited to 26 weeks for these two categories of workers.

3. PROCEDURE AND TERMS OF THE OUTPLACEMENT

The procedure and terms of the outplacement differ according to whether the dismissed worker is given pay in lieu of at least 30 weeks' notice or has to work out at least 30 weeks' notice.

It must be noted in this regard that the notice period for workers who entered into service before 1 January is set "in months and weeks" (for non-manual workers) or in "days and weeks" (for manual workers).
In order to determine whether the 30 week period has been reached, the **possible portion of the notice period expressed in months** (= portion of the notice period corresponding to the seniority acquired at 31.12.2013) will be converted using the following formula: number of months' notice (= portion 1) x 13/3.
In the case of notice expressed in days and weeks, a week shall equal 7 days.
It must also be noted that if the application of the conversion formula gives a result with a decimal above 0.5, it will not be rounded up!

EXAMPLE

An employee is entitled to a notice period of 5 months (= portion 1) and 6 weeks (= portion 2). The notice period set in weeks shall be established as follows: 21.66 (i.e. 5 x 13/3) + 6 = 27.66 weeks. In this case, the employee shall not be entitled to an outplacement scheme.

A. TERMINATION WITH PAY IN LIEU OF AT LEAST 30 WEEKS

Outplacement measures provided -
A worker dismissed/made redundant with pay in lieu of **at least 30 weeks' notice** (or pay in lieu of that part of such notice still to run) is entitled to:

- **60 hours of outplacement assistance** worth the equivalent of 1/12th of his annual pay for the calendar year preceding termination equal to a value of between € 1,800 and € 5,500. For part-time workers, the minimum and maximum values are prorated to their working hours.
  The above-mentioned value (between € 1,800 and € 5,500) is an approximation of the actual cost of outplacement;
- **pay in lieu of at least 30 weeks' notice**, or the part of that notice still to run, **of which four weeks are reckoned** as the value of the outplacement.
  This **4 week deduction is a fixed amount and occurs regardless of the amount of the worker's pay and/or the actual value of the outplacement**!

EXAMPLE

A worker is paid a monthly fixed sum of € 4,500. He receives a year-end bonus corresponding to a 13th month.
He is made redundant with pay in lieu of notice corresponding to 32 weeks.
What will be the amount of the pay in lieu after 4 weeks have been deducted for the value of the outplacement?

1. **Amount of the pay in lieu on an annual basis:**

Gross pay	= € 4,500.00
Double holiday bonus: [4,500 x 92%]/[12]	= € 345.00
Year-end bonus (13th month) = 4,500/12	= € 375.00
Monthly total	= € 5,220.00

2. **Gross weekly amount:**
   [€ 5,220.00 x 3]/[13] = € 1,204.62
3. **Total gross amount of the pay in lieu:**
   (€ 1,204.62 x 32) = € 38,547.84
4. **Amount to be deducted from the pay in lieu:**
   (€ 1,204.62 x 4) = € 4,818.48
5. **Gross amount of the pay in lieu after deduction:**
   (€ 38,547.84 – € 4,818.48) = € 33,729.36

NOTE

It is no longer possible to refuse outplacement
Until 31 December 2015, a worker dismissed/made redundant with pay in lieu of notice was entitled to refuse the outplacement offered by the employer and was entitled in such case to his full pay in lieu (i.e. including the 4 weeks outplacement value).

Since 1 January 2016, however, the severance payment shall be automatically reduced by 4 weeks of pay (= value of the outplacement), whether or not the worker accepts the outplacement. In other words, **the worker shall no longer have the possibility of refusing the outplacement offer made to him**.

The worker may, however, recover his entitlement to 4 weeks' pay when the employer does not comply with its obligations; see below.

Outplacement procedure - The outplacement procedure must run as follows:

- the employer must take the initiative for the procedure; the employer must make the worker a valid offer of outplacement in writing within **15 days** after the employment contract has ended;
- if the employer fails to offer outplacement to the worker within those **15 days**, the worker may serve written formal notice on the employer within **39 weeks** after the expiry of that period;
- the employer must then make the worker a valid offer of outplacement in writing within **four weeks** of the date of the formal notice;
- the worker has **4 weeks** from the time when the employer makes the offer (and no later than the date on which notice is given of the dismissal), to accept or reject it in writing.

N.B.

The worker who does not respond to the outplacement offer within the prescribed deadline is deemed to have accepted the offer. In such circumstances, the employer may deduct 4 weeks of the severance payment but will of course have to offer the outplacement measure.

Duration and phases of the procedure - The outplacement procedure takes place in three successive phases each comprising 20 hours' assistance spread over **a maximum period of 12 months**:

- phase 1: **20 hours in the first 2 months** of the outplacement procedure; the aim in this phase is to help the worker draw up a personal assessment and job search strategy;
- phase 2: **20 hours** over the following **4 months**;
- phase 3: **20 hours** over the **final 6 months.**

The different phases (1st to 2nd and 2nd to 3rd) follow on automatically unless the worker has notified the employer that he has found a new job or started up in self-employment and does not wish to continue the procedure (the notice stops the procedure).

The procedure will also not start if the worker gives such notice before it does.

Loss of new job - procedure starts or resumes - Where a worker has notified the employer that he has found work with a new employer (see above) and loses that job within 3 months of starting it, he can ask for the outplacement procedure to start or resume. If it has previously started it resumes in the phase where it stopped and runs for the time remaining. The outplacement procedure ends in any event after 12 months from when it started.

The worker must put in his application in writing within one month following the loss of the new job.

If the worker wants to start the outplacement procedure and has not yet been offered it, the employer must offer it to him within **15 days** of his request.

Recovery of the right to 4 weeks' pay -
The worker recovers his right to the four weeks' pay that were deducted from his pay in lieu if the employer fails to meet his outplacement obligations, i.e., if he:

- does not offer outplacement to a worker who has followed the procedure and who has served him formal notice in accordance with the procedure;
- makes an offer of outplacement to the worker that does not comply with the regulation conditions and arrangements;
- does not actually implement the outplacement procedure despite having made a compliant offer to the worker.

B. TERMINATION WITH AT LEAST 30 WEEKS' NOTICE

Outplacement measures provided - A worker who is dismissed/made redundant and is working out at least 30 weeks' notice is entitled to:

- **60 hours of outplacement**. No proportional calculation of the number of hours of outplacement is provided for part-time workers. The latter are put on equal footing with full-time workers;
  The time spent on outplacement is taken out of the time for which the worker is entitled to time off to look for a new job during the notice period (= job-search leave).
  It must be recalled that workers who receive an outplacement are entitled to be absent once or twice per week during the whole of the notice period, without the total duration of the absences being allowed to exceed one working day per week.
- **at least 30 weeks' notice**.

Outplacement procedure - The outplacement procedure must run as follows:

- the employer must offer the worker outplacement within **4 weeks** of the time when notice begins to run;
- if the employer fails to offer outplacement to the worker within those 4 weeks, the worker may serve written formal notice on the employer within **4 weeks** after the expiry of that period;
- employer must then make the worker a valid offer of outplacement in writing within **4 weeks** of the date of the formal notice;
- the worker then has **4 weeks** from the time when the employer makes the offer to accept or reject it in writing; the worker may not consent to start outplacement any earlier than when he is given notice of termination.

Duration and phases of the procedure - Unlike a termination with pay in lieu of notice, the Act contains no provisions as to the duration of the procedure and/or its different phases.

Conversion of the notice period into a severance payment - If, during the notice period, the employer decides to immediately terminate the contract with the payment of a severance payment, he may deduct the value of the outplacement from the compensation to be paid, provided that if the worker has already received a part of his outplacement during the notice period, the employer may only deduct the value of the remaining part.

In other words, the 4 weeks to be deducted from the period covered by the pay in lieu shall be proportionate to the number of hours of outplacement that the worker has already followed during the notice period.

On the C4 form to be given to the worker, the employer shall specify in the "Remarks" section a number of days in the place of the 4 weeks: "During the notice period, the worker has already followed "xxx" days of outplacement".

For the purpose of determining the number of days, the National Employment Office (ONEm) proposes that the following formula be used: 28 – (X/60) x 28.
Where 28 = 28 days (4 weeks x 7).
Where x = number of hours of outplacement already followed.
And where the result is rounded up to the next unit.

EXAMPLE

A worker is dismissed/made redundant with a notice period of 42 weeks.
After 12 weeks, the employer decides to convert the remaining 30 weeks into a severance payment.
During the notice period, the worker already followed 20h of outplacement.
The period covered by the pay in lieu may be decreased by 9.33 days, this result being rounded up to 10 calendar days after applying the formula: 28 – (20/60) x 28.

The FPS Employment, however, uses a different formula: A/60 x 4 weeks of pay, where A = the number of hours of outplacement remaining to be followed.

EXAMPLE

If the worker has already followed 20h of outplacement, he still has 40h to follow. Assuming that the amount of 4 weeks of pay is equivalent to € 3,000, the reduction shall be made as follows: 40/60 of € 3,000 = € 2,000. The pay in lieu to be paid may then be reduced by € 2,000.

The FPS Employment's formula therefore consists of reducing the amount of the pay in lieu and not of reducing the notice period prior to calculating the pay in lieu...

Losing the new job - starting or resuming the procedure - There are two key points:

- a worker who has found a new job and then **loses that job within 3 months** after his entry into service can ask to start or resume the outplacement procedure. Where it has previously started, it will resume in the phase in which the outplacement programme was interrupted and run for the remaining hours. In all circumstances, the outplacement procedure ends when 12 months have expired from the date on which it started;
- a worker who has been given notice and terminates his employment contract by giving **shorter notice** (= counter-notice) because he has found alternative employment keeps his entitlement to outplacement for **up to 3 months** after his employment contract with his previous employer has ended. If the procedure had already started, it will resume in the phase in which the outplacement programme was interrupted and run for the remaining hours. In all circumstances, the outplacement procedure ends when 12 months have expired from the date on which it started.

The worker must submit his request in writing within one month of losing the new job.

The employer must offer outplacement within **15 days** of a request from a worker who wants to start the outplacement procedure but has not yet been offered it.

GENERAL REMARK

All requests (e.g. to start or resume outplacement; request to postpone the starting date of the outplacement), formal notices and other communications from the worker (e.g. notice that he has found a new job) must be made by registered letter or hand-delivered written document in duplicate, one copy of which must be signed for receipt by the employer.
All communications from the employer (e.g., outplacement offer, any rejection of a request for outplacement, acceptance or rejection of a request to postpone the starting date) must be made by registered letter.

02 SPECIAL OUTPLACEMENT SCHEME

In addition to the general outplacement scheme referred to in point 1, there is also a special outplacement scheme laid down by Collective Agreement No. 82.
Under the Act of 5 September 2001, the employer must voluntarily offer outplacement to **workers aged 45 and over who are dismissed/made redundant**.

Since 1 January 2014, this outplacement scheme became a special or residual outplacement scheme.

It will only apply to workers aged 45 and over who have at least one year's employment with their employer and who are **not entitled to at least 30 weeks' notice** (or pay in lieu of notice).

EXAMPLE 1

A worker of 50 years of age is entitled to a notice period of 36 weeks.
He shall fall under the general outplacement scheme given that he is entitled to at least 30 weeks' notice.

EXAMPLE 2

A worker of 52 years of age is entitled to a notice period of 27 weeks.
He shall not fall under the general scheme (< 30 weeks' notice).
However, he shall fall under the special scheme and Collective Agreement No. 82 shall apply to him.

1. WORKERS CONCERNED

PRINCIPLE

The special outplacement procedure applies to workers bound by an employment contract and who are subject to the provisions of the Act of 5 December 1968 on Collective Agreements and Joint Industrial Councils.

The following are therefore not covered: public sector workers, individuals employed in vocational training centres, and subsidised staff in subsidised free education establishments

REQUIREMENT FOR THE RECIPIENT

Only a **dismissed/redundant worker** (one whose contract is terminated by the employer) is entitled to an outplacement procedure. This therefore excludes a worker who resigns or whose contract is ended either by mutual agreement or by a frustrating event (force majeure), or by effluxion of time (for a fixed term contract) or completion of the work (under a contract for clearly defined work).

The worker dismissed/made redundant must also simultaneously meet the following conditions:

- not having been dismissed/made redundant for serious misconduct;
- be **at least 45 years of age** at the time of the dismissal/redundancy, i.e. at the time when notice is given of the termination of the contract;
- not be entitled to at least 30 weeks' notice (or corresponding pay in lieu);
- have **at least one year's** uninterrupted **length of service** with the employer, at the time of the dismissal/redundancy.

The entitlement to outplacement is not granted from the time that the worker may request entitlement to the pension (legal age of retirement).

WORKERS NOT COVERED BY AN OUTPLACEMENT OFFER

Unless an explicit request is made for the purpose, the employer is not required to offer an outplacement procedure to the workers listed below:

1) when **the part-time worker** is bound by an employment contract whose normal average weekly hours of work are **less than half** of those of a full-time worker in a comparable situation;
2) when, becoming out of work and claiming benefits, **the person must not be available for the general labour market**. This covers the following categories of workers:
   - workers who become ordinary early retired persons (on the basis of Chapters 2 and 3 of the Royal Decree of 3 May 2007);
   - workers who become early retired persons as part of a company in difficulty or undergoing restructuring and who, at the end of the notice period (not extended by a suspension) or of the period covered by a severance payment will have:
     - either reached the age of 58;
     - or are able to justify 38 years of employment;
   - the workers listed in the two categories above who, at the end of the notice period (not extended by a suspension) or of the period covered by a severance payment will have:
     - either reached the age of 58;
     - or are able to justify 38 years of employment;
   - workers dismissed/made redundant by an employer covered by the Joint Committee of urban and regional transport;
   - disabled workers dismissed/made redundant by an employer covered by the Joint Committee (or Joint Sub-Committee) for adapted work enterprises and social workshops (JC No. 327), except support staff and workers of target groups employed by a social workshop approved and/or subsidised by the Flemish Community whose contract has been terminated;
   - workers employed under an into-work programme.

2. CONCEPT OF OUTPLACEMENT

The concept of an "outplacement procedure" as defined by Collective Agreement No. 82 (Art. 4) is substantially identical to that outlined above in the framework of the general outplacement scheme.

3. START OF THE OUTPLACEMENT PROCEDURE

Outplacement must, depending on the case, either be offered or requested, following a specific scenario. The starting date may therefore vary according to various cases.

UPON (EFFECTIVE) TERMINATION OF THE CONTRACT

Within **15 days** following the (effective) termination of the contract, the employer has the **obligation**, since 1 December 2007, to voluntarily make a valid outplacement offer to the worker in writing.
If the employer fails to make such an offer within the 15 day period, the worker must serve him with a formal notice in writing within one month of the end of such period (period of one month extended to 9 months in the event of termination without notice). The employer then has one month from the official notice to make a valid offer.

Upon receiving the offer, the worker shall have an additional period of one month within which to accept or refuse the offer.

DURING THE NOTICE PERIOD

If the contract is terminated with notice, the employer may make a written outplacement offer **upon notice being given of the dismissal and during the full duration of the notice period**. However, the worker is not obliged to accept the offer during this period. The worker shall have, in all cases, a period of one month starting from the effective termination of the contract in which to accept or refuse the offer.

When the contract is terminated with a notice period, the worker may also **request after receiving notice of the dismissal** to have the outplacement during the notice period.

However, the employer is not obliged to accept this request, but he will then have to make an offer in writing at the end of the contract.

IN THE EVENT OF LOSS OF A NEW JOB

The worker who has found a new job and who loses it within 3 months of entering into service is entitled to start or resume the outplacement procedure at the phase in which it was interrupted. In any case, the procedure shall end upon the expiry of a period of 12 months following the start of the procedure.

In this case, the worker must submit their request in writing within a period of one month after losing the new job.

If an outplacement offer had not yet been made, the procedure explained above under "Upon (effective) termination of the contract" will be applied, and the 15 day period will start at the time that the request was made by the worker.

REMARK

A worker who has been given notice and terminates his employment contract by giving shorter notice (= counter-notice) because he has found alternative employment keeps his entitlement to outplacement for up to 3 months after his employment contract with his previous employer has ended. If the procedure had already started, it will resume in the phase in which the outplacement programme was interrupted and run for the remaining hours.

In all circumstances, the outplacement procedure ends when 12 months have expired from the date on which it started. The request to start or resume the procedure must, in this specific case, be submitted within 3 months after the employment contract with the previous employer has ended.

4. PROCEDURE AND TERMS OF THE OUTPLACEMENT

DURATION AND PHASES OF THE PROCEDURE

The outplacement procedure takes place in 3 successive phases, each comprising 20 hours of support, spread over a **maximum period of 12 months**:

- 1st phase: **20 hours** in the **first 2 months** of the outplacement procedure; the aim during this phase is to help the worker establish a personal and job skills/experience assessment and a job-seeking strategy;
- 2nd phase: **20 hours** in the following **4 months**;
- 3rd phase: **20 hours** in the following **6 months**.

The aims of the 2nd and 3rd phases are, where applicable, the resumption of the support measures started during the first phase.

ABSENCES DURING THE NOTICE PERIOD

When the procedure takes place during the notice period, the hours devoted to outplacement are reckoned as the days or half days to which the worker is entitled for the purpose of seeking a new job.

COST OF THE PROCEDURE

The cost of the outplacement procedure shall be borne entirely by the employer. The outplacement may not be carried out to the detriment of the legal provisions on dismissal; in other words, the cost of the procedure may not be charged on the duration of the notice period or the compensation in the event of termination of the contract as well as on additional financial benefits granted in the event of dismissal under sectoral collective agreements.

ABSTENTION FROM THE EMPLOYER

If the employer does not respond to a validly submitted request for outplacement, the worker may contact the regional unemployment office to receive such outplacement paid for by the National Employment Office (ONEm) through application form C230.1. The request must be submitted within 6 months of formal notice being served on the employer. The Royal Decree of 23 January 2003 (Belgian Official Gazette of 11.02.2003) specifies the terms for serving such notice and the procedure that must be followed in this case.
If all the conditions are met, the National Employment Office (ONEm) will issue an "outplacement" voucher to the worker who may then register with the outplacement agency of his choice and pay the outplacement fees with this cheque worth € 1,500. The National Employment Office (ONEm) will recover this amount from the employer (see below).

5. PENALTIES

PENALTIES FOR THE EMPLOYER

An employer who does not comply with his outplacement obligations shall be liable to pay a contribution to the National Employment Office (ONEm). The contribution is allocated to outplacement for workers who did not receive the planned outplacement. The amount of the contribution is comprised of:

- compensation in the amount of € 1,500 for the purpose of funding the outplacement that was not provided;
- compensation in the amount of € 300 for the purpose of covering the administrative and financial costs of outplacement.

The National Office for Social Security (O.N.S.S.) is responsible for recovering the € 1,800. The contribution is also deemed to be a social security contribution, in particular as regards payment deadlines, the application of civil penalties and criminal provisions, etc.
It must also be noted that any violation of Collective Agreement No. 82 by the employer is punishable under criminal law.

PENALTIES FOR THE WORKER

The National Employment Office may strike the dismissed/redundant worker if:

- he refuses to collaborate with or accept a proposal for outplacement organised by the employer or by an employment unit in which the employer participates, provided that the offer is made on the basis of a regulatory requirement;
- he does not serve official notice in writing upon his employer when the latter has not made an outplacement offer within the deadlines and in accordance with the procedure provided for in the framework of Collective Agreement No. 82*bis*;
- justifying at least one year's uninterrupted length of service within the company, he does not register, within the provided deadlines, with an employment unit in which the employer undergoing restructuring participates or did not remain registered for 6 months, calculated from date to date, in said employment unit.

The penalty could consist in having his unemployment benefit stopped for a period of between 4 weeks and 52 weeks.

See the table on the next page.

Francis Verbrugge, Senior Legal Counsel

Comparison Table - General and specific outplacement schemes

Terms - Conditions and time limits	General outplacement scheme (from 1 January 2014)		Special (residual) outplacement scheme (workers 45 and over)
	Termination with pay in lieu of notice	Termination with notice	
Workers concerned	Dismissed/redundant private sector workers and public sector contract workers. **Excludes** workers dismissed/made redundant: • for serious misconduct; • due to restructuring.	Dismissed/redundant private sector workers and public sector contract workers. **Excludes** workers dismissed/made redundant: • for serious misconduct; • due to restructuring.	Dismissed/redundant workers with an employment contract and subject to the provisions of the Act of 5 December 1968 (= private sector workers). **Excludes** workers dismissed/made redundant: • for serious misconduct; • due to restructuring.
Qualifying conditions for outplacement	At the time of termination: be entitled to **at least 30 weeks' pay in lieu of notice** or pay equal to the length of 30 weeks' notice still to run.	At the time of termination: be entitled to **at least 30 weeks' notice**.	At the time of termination: • be at least **45 years of age**; • have at least **one year's length of service**.
Outplacement measures offered	• **60 hours** outplacement assistance (worth the equivalent of 1/12 of annual pay for the calendar year preceding termination equal to a value of between € 1,800 and € 5,500. • Payment in lieu of at least 30 weeks' notice (or equal to the length of 30 weeks' notice still to run) from which 4 weeks are deducted for the value of the outplacement assistance.	• **60 hours** outplacement assistance set against the time which the worker can take off to seek employment while under notice. • At least 30 weeks' notice.	**60 hours** outplacement assistance set against the time which the worker can take off to seek employment while under notice.
Outplacement procedure			
➡ Time within which the employer must make an offer of outplacement	Within 15 days of the end of the contract.	Within 4 weeks from when notice starts to run.	Within 15 days of the end of the contract or during the entire notice period.
➡ Time within which the worker must accept the offer	Within 4 weeks of receiving the offer.	Within 4 weeks of receiving the offer.	Within 1 month of receiving the offer. **N.B.** - The offer need not necessarily be accepted during the period of notice, but must be accepted within at least 15 days of the effective end of the contract.
➡ Time within which formal notice must be served on the employer	Within 39 weeks after the expiry of 15 days following the end of the contract.	Within 4 weeks (= 1 month) after the expiry of the first period of 4 weeks after notice starts to run.	Within one month after the expiry of 15 days following the end of the contract (but the 1 month rises to 9 months for termination with pay in lieu of notice).
➡ Time within which an offer must be made after formal notice is served	Within 4 weeks after formal notice is served.	Within 4 weeks after formal notice is served.	Within one month after formal notice is served.

Terms - Conditions and time limits	General outplacement scheme (from 1 January 2014)		Special (residual) outplacement scheme (workers 45 and over)
	Termination with pay in lieu of notice	Termination with notice	
Duration and phases of the outplacement procedure	Three phases over a **maximum period of 12 months**: • 1st phase: 20h in the first 2 months of the procedure; • 2nd phase: 20h in the next 4 months; • 3rd phase: 20h in the final 6 months.	No provision.	Three phases over a **maximum period of 12 months**: • 1st phase: 20h in the first 2 months of the procedure; • 2nd phase: 20h in the next 4 months; • 3rd phase: 20h in the final 6 months.
Loss of new job and period for making a request for outplacement	Within 1 month of losing the new job (the loss of the new job must take place within 3 months of entry into service with the new employer). **N.B. -** The employer must reply with an offer within 15 days after the worker's request.	Within 1 month of losing the new job (the loss of the new job must take place within 3 months of entry into service with the new employer) and within 3 months of the end of the contract (former job) when the worker ended the contract (with the previous employer) during the notice period, with reduced notice (=counter-notice). **N.B. -** The employer must reply with an offer within 15 days after the worker's request.	Within 1 month of losing the new job (or within 3 months of the end of the contract with the previous employer when the worker served him with counter-notice). **N.B. -** The employer must reply with an offer within 15 days after the worker's request.
Penalty for employer's failure to comply with the procedure	No penalty provided but full payment of the severance payment with no possibility of deducting 4 weeks.	No penalty provided.	Contribution of € 1,800 to be borne by the employer and to be paid to the NSSO (for the ONEm) regardless of criminal and administrative penalties.
Penalty for worker's refusal of the outplacement offer	No penalty provided, until 31.12.2015.	No penalty provided, until 31.12.2015.	Possibility of suspension of the entitlement to unemployment benefits for a period between 4 and 52 weeks, or exclusion.
Formalities for the outplacement procedure	All outplacement offers and requests, formal notices, consent to the procedure (or refusal thereof), request for postponement of the starting date, notices of a new job must be made by registered letter. However, all notifications made by the worker may also be made by delivery of a written document, a duplicate of which must be signed by the employer as proof of receipt.		

SOCIAL NEWS

TRAVEL COSTS: EMPLOYER'S CONTRIBUTION

The employer is obliged to meet part of the costs of the **public transport** that the staff members bear to travel from their place of residence to their place of work (and back).

This employer's contribution is mandatory for all workers without regard to the extent of their gross monthly wage.

Since 1 February 2009, the mandatory employer's contribution corresponds to a percentage of the railcard's cost price.

This employer's contribution is more specifically calculated on the basis of a flat-rate amount depending on the number of travelled kilometres (the number of kilometres is indicated on the railcard) (cba no. 19octies, art. 3).

The social partners have decided to adapt the scale of the employer's contribution to the costs of travel between home and work for the period 01.02.2016 to 31.01.2017.

The table below lists the amounts of **the employer's contributions as from 1 February 2016** for monthly, quarterly and Railflex cards.

The employer's contributions stated below are minimum amounts. However, a contract clause or a provision in a cba (within the sector or the company) may provide for a higher reimbursement rate and for instance cover the full price of the transport. In other cases the employer's contribution may be fixed at a given certain percentage (for instance 80%, 90%) of the actual price of the railcard for the corresponding number of kilometres.

Consequently, in the right columns of the table, we state the **amount of the actual price of the railcard** from 1 February 2015 and based on the travelled distance.

Distance in km	Mandatory employer's contribution (1)			Railcard cost price (2)		
	Monthly	Quarterly	Railflex (3)	Monthly	Quarterly	Railflex (3)
0 – 3	22.40	62.00	9.20	33.50	94.00	11.50
4	29.00	82.00	10.00	36.50	103.00	12.50
5	31.50	89.00	10.80	39.50	111.00	13.50
6	33.50	94.00	11.50	42.00	118.00	14.40
7	35.50	100.00	12.20	44.50	125.00	15.30
8	38.00	106.00	12.90	47.50	132.00	16.10
9	40.00	111.00	13.60	50.00	139.00	17.00
10	41.50	118.00	14.20	52.00	147.00	17.80
11	44.00	123.00	15.00	55.00	154.00	18.70
12	45.50	129.00	15.70	57.00	161.00	19.60
13	48.00	134.00	16.30	60.00	168.00	20.40
14	49.50	140.00	17.00	62.00	175.00	21.30
15	52.00	146.00	17.80	65.00	182.00	22.20
16	54.00	151.00	18.40	68.00	189.00	23.00
17	56.00	157.00	19.10	70.00	196.00	23.90
18	58.00	162.00	19.80	73.00	203.00	24.80
19	60.00	168.00	20.40	75.00	210.00	25.50
20	62.00	174.00	21.20	78.00	218.00	26.50

Distance in km	Mandatory employer's contribution (1)			Railcard cost price (2)		
	Monthly	Quarterly	Railflex (3)	Monthly	Quarterly	Railflex (3)
21	64.00	180.00	22.00	80.00	225.00	27.50
22	66.00	186.00	22.40	83.00	232.00	28.00
23	68.00	191.00	23.20	85.00	239.00	29.00
24	70.00	197.00	24.00	88.00	246.00	30.00
25	72.00	202.00	24.80	90.00	253.00	31.00
26	74.00	208.00	25.20	93.00	260.00	31.50
27	76.00	214.00	26.00	95.00	267.00	32.50
28	78.00	219.00	26.80	98.00	274.00	33.50
29	81.00	225.00	27.60	101.00	281.00	34.50
30	82.00	231.00	28.00	103.00	289.00	35.00
31 -33	86.00	240.00	29.20	107.00	300.00	36.50
34 -36	90.00	254.00	30.80	113.00	318.00	38.50
37 -39	96.00	268.00	32.80	120.00	335.00	41.00
40 -42	101.00	282.00	34.40	126.00	352.00	43.00
43 -45	106.00	296.00	36.00	132.00	370.00	45.00
46 -48	110.00	310.00	37.40	138.00	387.00	47.00
49 -51	116.00	324.00	39.60	145.00	405.00	49.50
52 -54	119.00	334.00	40.80	149.00	417.00	51.00
55 -57	122.00	344.00	41.60	153.00	430.00	52.00
58 -60	126.00	354.00	43.20	158.00	442.00	54.00
61 -65	131.00	367.00	44.80	164.00	459.00	56.00
66 -70	137.00	383.00	46.40	171.00	479.00	58.00
71 -75	143.00	400.00	48.80	179.00	500.00	61.00
76 -80	149.00	417.00	50.40	186.00	521.00	63.00
81 -85	154.00	433.00	52.80	193.00	541.00	66.00
86 -90	161.00	450.00	54.40	201.00	562.00	68.00
91 -95	166.00	466.00	56.80	208.00	583.00	71.00
96 -100	172.00	482.00	58.40	215.00	603.00	73.00
101 -105	178.00	499.00	60.80	223.00	624.00	76.00
106 -110	184.00	516.00	63.20	230.00	645.00	79.00
111 -115	190.00	532.00	64.80	238.00	665.00	81.00
116 -120	196.00	549.00	67.20	245.00	686.00	84.00
121 -125	202.00	566.00	68.80	252.00	707.00	86.00
126 -130	208.00	582.00	71.20	260.00	727.00	89.00
131 -135	214.00	598.00	72.80	267.00	748.00	91.00
136 -140	220.00	615.00	75.20	275.00	769.00	94.00
141 -145	226.00	632.00	76.80	282.00	790.00	96.00
146 -150	234.00	654.00	80.00	292.00	818.00	100.00

(1) Or the contribution which can be used as a reference if the worker makes use of a public or a private means of transport. depending on the agreements concluded in the sector or within the company.

(2) Within certain sectors (for instance JC no. 124. 126. etc.) the contribution consists of a % of the cost price of the railcard (for instance 80 to 100%).

(3) The 'Railflex' card offers part-time workers 5 identical journeys there and back to be travelled within a period of 15 days. 'Railflex' also gives rise to a contribution of the employer.

Francis Verbrugge, Senior Legal Counsel

SOCIAL NEWS

PERMITTED INCOME THRESHOLDS FOR PENSIONERS IN 2016

In order to avoid an impact on the granting of the pension, the pensioner cannot exceed a certain income threshold. This threshold varies according to the year in which the professional activity is performed, the nature of the performed activity, the type of pension (old-age pension or survivor's pension), the age of the beneficiary, the start date of the pension and according to whether the pensioner has one or more dependent children.

The income thresholds are indexed on an annual basis. **For 2016** the permitted income thresholds are fixed as indicated in the table below.

Francis Verbrugge, Senior Legal Counsel

Permitted income thresholds for pensioners in 2016 (official amounts)

Nature of the performed activity	Pensioner before the legal age of oldage pension (65 years) [1] and a career of less than 45 years	Pensioner 65 years of age [2] or with a minimum career of 45 years	Pensioner who only benefits from survivor's pension before the age of 65	Pensioner who only benefits from survivor's pension from the age of 65 (even with a career of 45 years) [3]
Salaried activity				
Pensioner without dependent children	€ 7,797.00 gross	Unlimited	€ 18,154.00 gross	€ 22,521.00 gross
Pensioner with dependent children	€ 11,696.00 gross	Unlimited	€ 22,693.00 gross	€ 27,394.00 gross
Self-employed activity				
Pensioner without dependent children	€ 6,238.00 net	Unlimited	€ 14,523.00 net	€ 18,017.00 net
Pensioner with dependent children	€ 9,357.00 net	Unlimited	€ 18,154.00 net	€ 21,916.00 net
Other activity, mandate, assignment or office				
Pensioner without dependent children	€ 7,797.00 gross	Unlimited	€ 18,154.00 gross	€ 22,521.00 gross
Pensioner with dependent children	€ 11,696.00 gross	Unlimited	€ 22,693.00 gross	€ 27,394.00 gross

Nature of the performed activity	Pensioner before the legal age of oldage pension (65 years) (1) and a career of less than 45 years	Pensioner 65 years of age (2) or with a minimum career of 45 years	Pensioner who only benefits from survivor's pension before the age of 65	Pensioner who only benefits from survivor's pension from the age of 65 (even with a career of 45 years) (3)
Simultaneous or successive performance of various activities as described above (total of the net income of the self-employed activity + 80% of the gross income of the salaried activity)				
Pensioner without dependent children	€ 6,238.00	Unlimited	€ 14,523.00	€ 18,017.00
Pensioner with dependent children	€ 9,357.00	Unlimited	€ 18,154.00	€ 21,916.00

(1) More precisely, before 1 January of the year of the 65th anniversary.
(2) More precisely, from 1 January of the year of the 65th anniversary.
(3) The amounts also apply to pensioners of whom the spouse benefits from a household rate pension.

WAGE ADJUSTMENTS

WAGE ADJUSTMENTS ON 1 JANUARY 2016

Index December 2015
- (base 2013) 101.48
- (base 2004) 124.21

Health index
- (base 2013) 102.23
- (base 2004) 123.46

Average over the past four months
- 100.66

Due to the large amount of wage adjustments in January this month's list will be published exceptionnally and solely on our website. Go to **http://www.partena-professional.be/en/category/documents-and-publications/periodicals/socio-legal-news/salary-adjustments/** for this list of wage adjustments per JC.

SOCIAL NEWS

MAXIMUM ATTACHABLE & ASSIGNABLE AMOUNTS IN 2016

A creditor seeking payment of amounts owed can recover his claim directly from the debtor's employer. This can be done in two main ways: through attachment or assignment.

Attached or assigned amounts are deducted from the worker's net earnings, i.e., after deduction of social security contributions, PAYE income tax deductions and any amounts withheld for paying into a supplementary social security benefit scheme, not counting any other sums or amounts withheld. Also, only a part of the net earnings amount can be attached or assigned. Statutory pay bands have been fixed within which to calculate the amount that can be attached or assigned. This is known as the attachable or assignable portion. These portions are calculated differently for earned income and income replacement benefits.

Furthermore, a protected earnings rate was introduced for workers with dependent children on 1 February 2007. The protection rate reduces the amount of the assignable or attachable portion of earnings.

The amounts (or income thresholds) on which to calculate attachable or assignable portions in 2016 are as shown in the table at the bottom of this page. The protected earnings rate for dependent children is maintained at € 66. The new amounts of attachable or assignable portions as shown in the table should be used for all payments made from 1 January 2016, even if the deductions are made from income to which the entitlement arose before 1 January 2016. Conversely, for earnings for January 2016 paid in advance before 1 January 2016, the limits for 2015 will apply.

REMINDER

No limits apply where the attachment or assignment is the result of a court order for payment of maintenance/child support or payment of earnings under Article 221 of the Civil Code (allotment of wages order). The pay band system mentioned above does not apply here, and the full amount of the worker's earnings can be attached or assigned. Attachment or assignment for these purposes is an absolute priority claim over any other attachments or assignments.

Net monthly income	Attachable or assignable portion of	
	Earned income (employed or selfemployed)	Income replacement benefit
Up to € 1,073	Nothing	Nothing
€ 1,073.01 – € 1,153	20% of the amount between these two amounts, i.e., € 16.00	20% of the amount between these two amounts, i.e., € 16.00
€ 1,153.01 – € 1,272	30% of the amount between these two amounts, i.e., € 35.70	40% of the amount between these two amounts, i.e., € 47.60
€ 1,272.01 – € 1,391	40% of the amount between these two amounts, i.e., € 47.60	40% of the amount between these two amounts, i.e., € 47.60
Above € 1,391	Full amount attachable or assignable	Full amount attachable or assignable

Francis Verbrugge, Senior Legal Counsel

SOCIAL NEWS

CHILDREN'S PERMITTED EARNINGS WHERE PARENTS' WAGES ARE ATTACHED OR ASSIGNED

The amounts that can be earned by children whose parents' wages are subject to attachment or assignment have been published in the *Belgian Official Gazette*.

Article 1409, §1 *bis* of the Code of Civil Procedure sets limits on the amounts that can be attached or assigned.

Workers whose pay has been attached or assigned can in certain circumstances and by complying with various formal requirements claim protection on the attachable or assignable portions of their pay.

In practice, this means that these portions will be reduced by € 66 (in 2016) per dependent child.

A "dependent child" within the meaning of Article 1409, §1 *bis* of the Code of Civil Procedure is a person:

- who has not attained their 25th birthday OR is subject to extended minority status (i.e., normally suffering from a profound mental disorder);
- for whose maintenance, accommodation, education or upbringing the recipient of the attached or assigned wages makes substantial financial provision;
- with whom they stand in a parent-child relationship either as biological parent OR as social parent.

  A "social parent" means either the partner of a parent where a new blended family unit has been created, or a grandparent or any other person who stands in loco parentis to the child in order to provide for its maintenance, accommodation, education or upbringing.

  The decisive criterion must be the special relationship and assumed role either together with a parent or in replacement of one or both parents.

Financial assistance will be deemed to be substantial where the dependent child lives permanently - even if not exclusively and uninterruptedly - with the recipient of the attached or assigned wages.

Financial assistance will also, in any event, be deemed substantial where the recipient of the attached or assigned wages contributes an amount greater than the child dependency addition, i.e., more than € 66 (in 2016).

However, a child who within the 12 months preceding the declaration had net resources amounting to more than:

- € 3,042 net if the parent receiving the attached or assigned wages is a non-marital partner;
- € 4,394 net if the parent receiving the attached or assigned wages is a lone parent;
- € 5,571 net if the child is registered disabled within the meaning of Article 135 of the Income Tax Code 1992 (CIR / 92).

cannot be considered as being a dependent child.

The above amounts are as of 1 January 2016.

In order to qualify for this increased protected amount of the attachable or assignable portions of their pay, workers whose earnings are subject to attachment or assignment must submit a declaration in the standard form published in the *Belgian Official Gazette* of 30 November 2006.

The form must be accompanied by documents proving that the child is a dependent as claimed.

Francis Verbrugge, Senior Legal Counsel

COLOPHON

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