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Monthly review on social and tax regulation | Partena | September 2014

Topic

News

PARTENA

New rules to prevent psychosocial risks in the workplace

In order to improve the means by which all employment risks can be prevented, major changes have been made to the Employee Welfare Act of 4 August 1996. Here, we give an initial summary of the new features, which came into force on 1 September 2014.

01 General summary

Belgium's employment rules include a number of provisions aimed at ensuring the welfare of employees in the performance of their work. They are set down in the Act of 4 August 1996. Far-reaching changes have nevertheless been made to this legislation by two new Acts of 28 February 2014 (Official Gazette, 28.04.2014) and the Royal Decree of 10 April 2014 on the prevention of psychosocial risks in the workplace (Official Gazette, 28.04.2014).

The objective is to set in place an overall policy to prevent psychosocial risks in the workplace without just now limiting the rules to the risk of violence, bullying and sexual harassment in the workplace.

For the first time, the notion of "burn-out", or stress, is introduced into the rules. Employers are given responsibility for avoiding their workforce sinking into a syndrome of occupational exhaustion. To do so, they have to do precise analyses of the risks, take interim measures where serious cases arise, and so on. Furthermore, a procedure for requesting individual psychosocial intervention is created to allow those suffering from occupational exhaustion or stress to ask their companies to take necessary measures. ››

02 Employers and workers concerned

The provisions on the prevention of psychosocial risks in the workplace apply to employers in the private or public sector and to all workers employed under an employment contract and persons equated thereto.

There are therefore equated to workers:

- persons who, other than under an employment contract, perform work under the authority of another person;
- persons following vocational training whose training programme provides for a form of work, whether or not carried out in the training establishment;
- persons bound under a traineeship contract (e.g. "small business" apprentices and industrial apprentices);
- interns (pupils and students who perform an internship in a company for a given time);
- pupils and students who take courses whose syllabus provides for a form of work that its carried out in the educational establishment.

The specific provisions concerning violence, bullying and sexual harassment in the workplace are, for their part, aimed at the employers and workers (and equated workers) referred to above and also at persons who come into contact with workers in the performance of their contracts (e.g. customers, suppliers, recipients of welfare benefits, etc.).

03 Preliminary definitions

A policy for the prevention of employment risks must rest on clear concepts. Here are some of the definitions.

Psychosocial risks in the workplace – Psychosocial risks in the workplace are defined as the probability that one or more workers could sustain mental harm, which might also be accompanied by physical harm, further to exposure to the component parts of the work organisation, the content of the work, the employment conditions, the living conditions at work and inter-personal relations in the workplace, on which the employer has an impact and that objectively entail a danger. Mental harm can be particularly manifested by anguish, depression, **burn-out**, notions of suicide or a state of post-traumatic stress. Physical harm may be manifested by sleeping problems, hypertension, palpitations, and gastric and intestinal problems.

It will be noted that these psychosocial risks can be of multiple origins and be linked to:

- the work organisation (e.g. task allocation, style of management, work procedures);
- the content of the work (e.g. its complexity, emotional demands, the mental burden linked to the difficulty of the task, the physical burden);
- the employment conditions, i.e. everything affecting the manner in which the contract is performed (e.g. type of contract, working hours, night work, seconded work, etc.);
- the living conditions at work (e.g. physical environment, work materials, noise, lighting);
- inter-personal relations in the workplace: i.e. internal relations (with colleagues, line management) plus relations with third parties, the possibilities of contact.

Of course, the employer cannot be held responsible for all psychosocial risks; only situations that actually entail a danger have to be prevented by the employer!

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04 Violence in the workplace

"Violence in the workplace" means any factual situation in which a worker is threatened or aggressed mentally or physically in performing their work.

This particularly covers instances of threatening behaviour and physical aggression (e.g. a direct physical strike) or verbal aggression (e.g. insults, slander).

05 Bullying in the workplace

"Bullying in the workplace" means, taken as a whole and, as such, constituting a wrong, several similar or different instances of behaviour outside or within the company, occurring in the course of a given period with the aim or result of:

- harming the character, dignity or physical or mental integrity of a worker in the performance of their work;
- jeopardising their job; or
- creating an intimidating, hostile, offensive, humiliating or hurtful environment and that is especially expressed in words, threats, actions, gestures or partisan written messages.

Bullying in the workplace can take a number of forms, such as isolating the worker by ignoring them, preventing the worker from expressing themself, discrediting them by not entrusting them with tasks or giving them useless tasks or tasks that are impossible to do, etc. Such behaviour may in particular refer to age, marital state, parentage, prosperity, religion or life philosophy, political beliefs, trade union convictions, language, current or future state of health, disability, physical or genetic characteristics, social origins, nationality, supposed race, skin colour, origin, national or ethnic roots, sex, sexual inclination, gender identity and gender expression.

06 Sexual harassment in the workplace

"Sexual harassment in the workplace" is defined any form of verbal, non-verbal or physical conduct of a sexual nature whose aim or effect is:

- to impair someone's dignity; or
- to create an intimidating, hostile, degrading, humiliating or offensive environment.

This type of harassment can be expressed as insistent or lecherous looks, ambiguous remarks, insinuations, displaying material of a pornographic nature, touching, hits and wounds, rape, etc.

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07 Prevention policy players

Effective prevention of employment risks is everyone's affair, both of workers themselves and of the health and safety at work committee, as well as line management. It is also necessary to emphasise the especially important part played by two specific individuals:

1 the health and safety adviser for psychosocial aspects in the workplace (HSAPA); and
2 the confidential adviser.

1. Obligation of having a health and safety adviser for psychosocial aspects in the workplace

All employers and companies, regardless of how many workers they employ and whatever business they are in, must have a health and safety adviser for psychosocial aspects in the workplace (HSAPA), who forms part of either the internal health and safety at work service of the company (IHSS) or the external service that the company is signed up to (EHSS).

The health and safety adviser for psychosocial aspects in the workplace (HSAPA) has responsibility covering all psychosocial risks in the workplace and has the job of assisting the employer in:

- the context of general analysis of the risks and
- choosing general health and safety measures and assessing them
- and takes part in the analysis of specific work situations in which a danger is detected.

They intervene in both the informal phase and the formal phase where a request is submitted for psychosocial intervention (see below).

Worth knowing! – Where the health and safety adviser for psychosocial aspects is on the IHSS, they may not be a member of the management or simultaneously occupy a position as a health and safety adviser with responsibility for healthcare in the workplace.

2. Optional designation of a confidential adviser

Employers may appoint one or more confidential advisers within their company or organisation provided this is first agreed to by all the workers' representatives on the health and safety at work committee.

If it wishes, the committee can even make this appointment a requirement.

The confidential adviser has responsibility for all psychosocial risks in the workplace, but only as regards the informal procedure (see below). Requests for formal psychosocial intervention cannot therefore be referred to them.

The position of confidential adviser may be exercised by a member of staff or someone outside the company. However, the position may not be occupied by:

- the employer's or staff's delegates on the works council or the health and safety in the workplace committee;
- candidates in elections of staff representatives to the committee;
- trade union shop stewards;
- the health and safety adviser for healthcare in the workplace;
- management personnel, i.e. persons in charge of the day-to-day management of the company (or organisation) who have power to represent and bind the employer, or members of personnel who are directly subordinated to such persons where they also carry out day-to-day management tasks.

Each confidential adviser is also required to take training within two years following their appointment, except, in certain conditions, those confidential advisers appointed before 1 September 2014. ››

08 The possible paths of action

Employees who believe they are sustaining mental harm, whether or not accompanied by personal injury, as a result of psychosocial risks in the workplace (particularly including violence, bullying or sexual harassment) have a number of paths of action they can take:

- address their issues to their "natural" contact partners in the company;
- initiate an internal psychosocial intervention procedure (= a procedure instituted within the company/organisation);
- address their issues to the welfare in the workplace supervision directorate;
- seek mediation;
- raise proceedings in the competent court.

1. Contact with partners within the company

Employees who believe they are sustaining mental harm may, in the first instance, address their issues to their privileged contact partners in the company: the employer, of course, a line manager, a member of the HSWC or the trade union chapter. Such contact must have the aim of not only giving vent to the situation but also of trying to reach a response and/or solution for the problem being experienced.

2. Internal psychosocial intervention procedure

Regardless of the step referred to above (whether or not it is taken!), workers can take recourse to a special internal procedure that must be set up in all companies, and which has to be included in the company's work regulations (e.g. in the form of an appendix).

The procedure has to enable employees to request:

- either informal psychosocial intervention from the confidential adviser or the health and safety adviser for psychosocial aspects (HSAPA);
- or formal psychosocial intervention from just the health and safety adviser for psychosocial aspects (HSAPA), whereby such intervention can be of a collective or individual nature.

NB – Consulting the confidential adviser or the health and safety adviser must be possible during working hours (and this time span must be considered as working time) and, if the usual organisation of working time in the employer's business does not allow, the consultation may take place outside working hours as long as this is provided for under a CBA, failing which the work regulations.

Preliminary phase

At the start of the procedure, it is up to the employee to contact the health and safety adviser for psychosocial aspects (HSAPA) or confidential adviser. Within ten calendar days of this contact being made, the confidential adviser hears the worker and informs them on what psychosocial intervention is possible (informal or formal).

- Informal psychosocial intervention entails seeking a solution informally.
- Formal psychosocial intervention involves asking the employer to take appropriate collective and individual measures further to an analysis of the specific work situation of the requesting employee and further to any proposed measures that may be put forward by the health and safety adviser for psychosocial aspects and that are included in their opinion.

Where the consultation takes place in a personal interview, the intervening party must, if requested by the employee, hand them a document evidencing that the interview has taken place.

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At the end of this consultation, if the employee chooses to continue the procedure, they choose the type of intervention they want to use (informal intervention – point (b) – or formal intervention – point (c)).

Request for informal psychosocial intervention

The employee and the confidential adviser or health and safety adviser seek a solution informally by means (in particular) of:

- discussions encompassing giving the applicant a welcome, actively listening to them and/or offering advice;
- intervention involving another person in the organisation (e.g. a line manager);
- a mediation procedure if the persons in question consent.

The type of informal psychosocial intervention chosen by the employee is recorded in a document dated and signed by the intervening party (confidential adviser or health and safety adviser) and the requesting employee, who is given a copy.

Request for formal psychosocial intervention

Personal interview – If they do not want to use informal psychosocial intervention or if it is unsuccessful in finding a solution, the employee may **express their desire** to the health and safety adviser on psychosocial aspects of submitting a request for formal psychosocial intervention.

Within ten calendar days of the day on which they have expressed this desire, the employee has an obligatory personal interview with the health and safety adviser for psychosocial aspects (HSAPA). The adviser will then certify in a document copied to the employee that the obligatory personal interview has taken place.

Submitting the request – The request for formal psychosocial intervention is recorded in a document dated and signed by the requesting employee and containing:

- a description of the work situation at issue;
- the request to the employer to take appropriate measures.

If, according to the employee, the request for formal psychosocial intervention concerns acts of violence, bullying or sexual harassment in the workplace, this request for intervention is recorded in a document dated and signed by the requesting employee and containing:

- a detailed description of the facts that the employee says constitute violence, bullying or sexual harassment in the workplace;
- the time and place at which each of the acts occurred;
- the identity of the supposed culprit;
- a request to the employer to take suitable measures to put an end to the situation.

The document is then sent to the health and safety adviser for psychosocial aspects or the external health and safety in the workplace service for which they carry out their duties.

Acceptance or rejection of the request – The health and safety adviser examines the request and, within ten calendar days of receiving it, gives notice of their decision to accept or reject the request. Failing notification within that period, the request is deemed accepted at the end of it.

The request for intervention may be rejected where the situation described by the employee:

- manifestly does not entail any psychosocial risks in the workplace;
- manifestly does not constitute violence, bullying or sexual harassment in the workplace.

For more details of how the procedure is conducted before the actual treatment of the request (of a mainly collective or individual nature), see diagram 1 on page 9.

Request of a mainly collective or individual nature

Depending on the situation described by the employee, the intervention request will be of a mainly collective nature or of a mainly individual nature and may be based on acts of violence, bullying or sexual harassment in the workplace.

➜ **Dealing with requests of a mainly collective nature**

Once accepted, a request for formal psychosocial intervention is of a mainly collective nature.

Information – As soon as possible, the health and safety adviser informs the employer and employee in writing of the risk situation, the processes for handling the request and the date when the employer must give a decision on what action will be taken further to the request.

Interim preventive measures – Before expiry of a period of three months (maximum) from the time when this information is given, the health and safety adviser gives notice of any proposed preventive measures.

Decision by the employer – Within a period of three months (maximum) from the information notified by the health and safety adviser, the employer gives written notice of its reasoned decision on the action to be taken further to the request; this notification is given to the health and safety adviser in charge of management of the IHSS (if there is one), the HSWC or the trade union chapter.

As soon as possible, the employer then implements the measures it has decided to take. ■

For more details of how the procedure is conducted, see diagram 2 on page 11.

Legal Knowledge

Next month, we continue looking at the paths of possible action, i.e. handling requests of mainly individual nature, including in particular handling requests based on violence, bullying or sexual harassment in the workplace and the protection mechanism against dismissal and against any harmful measures as instituted by statute.

Diagram 1 – Request for psychosocial intervention

First step

The worker contacts the confidential adviser (if the company has appointed one) or the health and safety adviser for psychosocial aspects (HSAPA).

Second step

Within 10 calendar days of the first contact, the confidential adviser or health and safety adviser (HSAPA) gives the worker a hearing and informs them of what possible forms the psychosocial intervention can take (1).
The worker must be given a choice between two types intervention:

Informal psychosocial intervention

Effected with the confidential adviser or health and safety adviser (HSAPA).
Intervention comprises:

- one or more meetings at which a welcome is extended to the worker, they are listened to and advice is given;
- intervention involving another person in the company (e.g. line manager);
- mediation between the persons involved (provided they agree).

If the intervention produces a solution, **the procedure comes to an end**.

If the intervention is unsuccessful, it is possible to submit a request for **formal psychosocial intervention**.

Formal psychosocial intervention

Effected with the health and safety adviser for psychosocial aspects (HSAPA). The procedure comprises four stages.

1. The worker **expresses their desire** to submit a request for formal psychosocial intervention.
2. Within the next ten days, **compulsory meeting** between the worker and the health and safety adviser for psychosocial aspects (HSAPA). This meeting is recorded in a dated, signed, written document, a copy of which is given to the worker.
3. A request is submitted by the worker in a dated, signed, written document and passed on to the health and safety adviser for psychosocial aspects (HSAPA) or the external health and safety at work service for which they carry out their tasks.
   The document contains:
   - a description of the problematic situation or the acts constituting violence, bullying or sexual harassment in the workplace;
   - a request by the employer to take appropriate measures in order, for example, to put an end to the acts of violence or harassment.
4. No later than ten calendar days after receipt of the request and after its examination by the health and safety adviser, notification that the request has been accepted or rejected (2).

The request is accepted

Depending on the situation set out in the request, it will be:

- a request of a collective nature: in which case, see diagram 2;
- a request of an individual nature: see diagram 3 (in the *Memento* of next month).

The request is rejected

Why? Because the situation described by the worker manifestly does not entail:

- psychosocial risks;
- acts of violence, bullying or sexual harassment in the workplace.

(1) If the consultation takes place in a personal interview, the intervening party hands the worker a document recording the interview, if this is requested.
(2) If there is no notification within the ten-day period, the request is deemed accepted at the end of the period.

Diagram 2 – Request for formal psychosocial intervention of a mainly collective nature

First step

Following acceptance of the request for formal psychosocial intervention of a collective nature, the health and safety adviser (HSAPA) sends notice in writing as soon as possible to:

1 **the employer:** informing it that a request for formal psychosocial intervention of a collective nature has been submitted and of how it will be handled according to the procedures described in the following; on the risk situation described by the requesting worker (who is not identified!) and the date by which the employer has to give a decision on what response it is reckoning on making to the request.

2 **the requesting worker:** inform them of the mainly collective nature of their request and how it will be handled according to the procedures described in the following; on the date by when the employer has to give its decision on what response it is reckoning on making to the request.

NB – *Before the expiry of a period of three months (maximum) after this information is given, written notice to the employer by the HSAPA on potential preventive interim measures to avoid the applicant sustaining severe harm to their health.*

Second step

Attitude of the employer after notice has been given by the health and safety adviser (HSAPA)

The employer takes a decision after possibly analysing the risks

Preliminary – In companies where there is an HSWC or trade union chapter, the employer must, before taking a decision:
- send the HSWC or TUC the document handed in by the HSAPA;
- ask for their advice on the procedures for dealing with the request;
- submit the result of any result from the risk analysis;
- ask for their advice on how to respond to the request.

Within three months (1) of the notice given by the HSAPA, the employer gives a written, reasoned decision on what response it will give to the request:
- to the HSAPA (who informs the requesting worker);
- to the health and safety adviser in charge of management of the internal H&S service (where the HSAPA forms part of an external H&S service);
- the HSWC or trade union chapter.

If the employer decides not to take measures or if the measures are regarded as inappropriate.

An appeal can be made to the Welfare Supervision Service.

The employer does not do a risk analysis and does not take a decision

In that case, the request is dealt with by the health and safety adviser (HSAPA) (2) where the employer:
- has not done an analysis of the risks relative to the psychosocial risks in relation to a specific work situation in which a danger is detected; or
- where that analysis has not been done in conjunction with the health and safety adviser for psychosocial aspects; and,

provided the requesting worker gives their written agreement:
- where the employer does not notify its reasoned decision within the stated deadline;
- where the employer decides not to take preventive measures;
- where the requesting worker considers that the preventive measures are not appropriate to their individual situation.

The health and safety adviser (HSAPA) informs the employer (3) in writing as soon as possible and informs it of the requesting worker's identity.

(1) Where the employer carries out a risk analysis, the period may be extended by a maximum of three months.
(2) The request is handled the same as a request of a mainly individual nature (see diagram three of the next months).
(3) The time in which the health and safety adviser (HSAPA) has to give their advice starts running as of the date of the document in which the worker gives their agreement.

Social news

Occasional work and domestic workers: important changes from 1 October 2014

The International Labour Organisation (ILO) signed a convention on 16 June 2011 on decent work for domestic workers. The convention provides that each member state has to take appropriate measures to offer domestic workers the same social security protection as other employees. Given that this is not currently the case (domestic workers are not, or are only partly, subject to employee social security), changes were needed to the Belgian legislation. As of 1 October 2014, domestic workers will be fully subject to employee social security.

Occasional work: a new definition

Up till 30 September 2014, occasional work is regarded as work carried out in connection with the employer's household or their family in so far as it does not exceed eight hours a week for one or more employers.

From 1 October 2014, occasional work is defined as the activity or activities carried out for the benefit of households of the employer (being a natural person) or their family, **with the exception of manual household activities to the extent that the employer does not exercise these occasional activities within that household professionally and regularly** and provided the activities do not amount to over eight hours a week for one or more employers.

This new definition is of great importance because an occasional employee is not subject to employee social security (in this regard, there is no change).

The new definition is mainly, but not exclusively, aimed at babysitters. Those doing shopping for the elderly, drivers of physically disable persons, etc. can also be regarded as occasional employees under the new definition.

What are concerned here are social or friendship services for which these people receive a small recompense. There can be no intention of carrying on an occupational activity.

If you are currently employing occasional employees and have questions about the new definition, please contact our payroll agency to examine with them the situation of your employee in terms of employee social security.

Those who carry out manual household activities (e.g. domestic workers) can no longer be regarded as occasional employees. From 1 October 2014, they will be subject in all cases (whether more or less than eight hours a week) to all sectors of social security (for further details, see below).

Domestic workers: all fully subject to employee social security

From 1 October 2014, all domestic workers will be fully subject to social security.

To recall, a domestic worker is someone who primarily carries out manual household work related to keeping the employer's house (who is a natural person) or their family.

NB – Domestic workers are not 'domestic servants', who do work of a non-household nature in connection with upkeep of the employer's household and their family (such as chauffeurs, governesses, etc.) and these changes relative to social security liability do not relate to them.

Till 30 September 2014

The old rules still apply till 30 September 2014, under which the social security liability of domestic workers depends on their status (living in or living out) and the number of hours worked.

- Domestic workers who live in (i.e. who live with the employer) are subject to employee social security regardless of the number of hours worked;
- Domestic workers who live out are not subject to employee social security:
  - if they provide services for less than four hours a day for the employer that employs them, or
  - if they work four hours or more a day for a single employer but do not work a total of 24 hours a week for one or more employers.

Domestic workers are not fully subject to employee social security: they do not pay contributions for child allowance or pay moderation.

From 1 October 2014

➜ **Full employee social security liability**

From 1 October 2014, all domestic workers will be fully subject to social security.

For domestic workers that are already subject to employee social security, that will result in their having to pay additional contributions for the child allowance (7%) and pay moderation (7.48%) sectors.

➜ **Reduction in employer social security contributions**

That said, the new liability will not necessarily lead to extra expense for the employer in all cases: from 1 October 2014, employers will be able to claim structural reductions and, possibly, the target group reduction for 'house personnel'. The target group reduction is granted for hiring a first domestic worker (subject to compliance with certain conditions, including that the domestic worker has to have been unemployed and fully entitled to benefit for six months).

If all the conditions are met, the reductions in employer social security contributions can in some cases reduce the employer cost or keep it the same compared to what the employer paid for the same employee prior to 1 October 2014.

Check out the www.socialsecurity.be social security portal for comprehensive details of the conditions for claiming these two reductions in employee social security contributions.

Your payroll agency will certainly be contacting you if you presently employ domestic workers and undertake all the procedures necessary to make sure your domestic workers are fully subject to employee social security on 1 October 2014. ■

Anne Ghysels, *Legal Counsel*

Social news

Paid sportspersons: salary ceiling from 1 July 2014 to 30 June 2015

"Paid sportsperson" means a person occupied in preparing or taking part in a sports competition or exhibition under the authority of another person in return for pay **exceeding a certain amount**. To determine that amount, all salary components are taken into consideration (fixed pay, bonuses, expense refunds, etc.). This annual ceiling is set by royal decree (R.D. of 27 May 2014 fixing the minimum amount of pay which must be received to be regarded as a paid sportsperson, Official Gazette 20.06.2014).

For the period from 1 July 2014 to 30 June 2015, it amounts to €9,400.

Period	€ p.a.
From 01.07.2013 to 30.06.2014	€ 9.208
From 01.07.2014 to 30.06.2015	€ 9.400

Consequences of exceeding the ceiling

Persons exceeding this ceiling are irrefutably deemed to be subject to social security. Below the ceiling, they are liable to employee social security (ONSS/RSZ) provided they are occupied under the terms of an employment contract. In other words, they work under the authority of another person in return for pay exceeding a payment intended to cover costs properly due by the employer.

Entry into force

This ceiling applies from 1 July 2014 to 30 June 2015, inclusive. ■

Anne Ghysels, *Legal Counsel*

Social news

New kilometric allowance as from 1 July 2014

An employer can grant a flat-rate kilometric allowance to his staff members who use their private car for work-related travel. As from 1 July 2014, a new amount is applicable.

The incurred car expenses can be reimbursed by the employer at a fixed amount provided that it is determined according to serious standards. The FPS Finance accepts that the allowances for car expenses cover the real costs if the amount fixed on the basis of the actual kilometres travelled does not exceed the amount of the similar allowances which the State grants to its staff by virtue of the Royal Decree of 18 January 1965 laying down general regulations in regard to travel costs.

The amount applicable **from 1 July 2014 until 30 June 2015** is **€ 0.3468/km** (instead of € 0.3461/km for the period from 01.07.2013 until 30.06.2014) (Circular no. 639 of 37 June 2014 – *M.B.* 04.07.2014).. ■

Peggy Criel, *Legal Counsel*

Social news

CO_2 contribution: private use presumption

The national social security office's (NSSO) 2nd quarter 2014 guidance to employers has clarified some matters relating to the CO_2 contribution, in particular with regard to the private use presumption for general purpose vehicles.

Generally

On 1 July 2005, the NSSO introduced a presumption of private use for any vehicle registered in the employer's name or covered by a rental or leasing agreement or other vehicle use agreement provided to workers. This presumption was inserted into Section 38, § 3, *quater* of the Social Security (Employed Workers - General Principles) Act of 29 June 1981.

The presumption initially applied to both utility vehicles and general-purpose vehicles, but has now been amended by the NSSO administrative guidance for the second quarter 2014. Note that at present, **only the NSSO guidance has been changed**.

New definitions

For the presumed private use of a company vehicle, the NSSO now distinguishes between:

- **Utility vehicle:** hAny vehicle classed as M1 (4-wheel passenger transport) or N1 (3- or 4-wheel carriage of goods) the use of which may incur a liability to calculate and pay the CO_2 contribution. Specifically, it is "a vehicle with a windowless rear loading space in which passengers may not (legally) be transported."
- **General-purpose vehicle:** All other vehicles classed as M1 and N1 (private car, combined passenger/goods vehicle, minibus, people carrier/ urban 4x4). Specifically, it is "a vehicle whose rear seat can be converted into a loading platform."

The situation now

The NSSO's 2nd *quarter* 2014 administrative guidance specifies that there will be **no presumption of private use for utility vehicles**.

Based on this new guidance, therefore, travel between home and the place of work using a utility vehicle should not be treated as travel between home and the place of work for the purposes of calculating and deducting the CO_2 contribution..

Three important points:

1. Private use of a utility vehicle for which the CO_2 contribution must be calculated and deducted can always be established on the basis of evidence discovered by NSSO inspectors;
2. The private use presumption remains unchanged for general-purpose vehicles;
3. The Act of 29 June 1981 which introduced the private use presumption has not been amended. As things stand, therefore, the distinction between utility vehicles and general-purpose vehicles made by the NSSO administrative guidance has no statutory basis. ■

Anne Beckers, *Legal Counsel*

Remuneration

Wage adjustments in september 2014

Indices for August 2014

Base complete index 2013: ➜ *100.17 (- 0.38)*
Base health index 2013: ➜ *100.12 (- 0.34)*
Smoothed health index: ➜ *100.30 (- 0.08)*

Indexation and increases under collective agreements: non-exhaustive forecasts

Joint Bargaining Committee (CP) 218: ➜ *+ 0.70% of index in January 2015*
Average monthly minimum wage/Welfare benefits: ➜ *+ 2 % in February 2015*

Indexations and salary adjustments for September 2014	
106.1	**Cement plants:** - 0.08% of index only on minimum salaries.
117	**Oil industry and trading:** - 0.08% of index only on minimum salaries.
139	**Inland waterways shipping:** System navigation: Adjustment of indexation mechanism (on scale and actual salaries) as from 01.01.2014. Change in Dutch-language name (estuary navigation) as from 01.01.2014. Adjustment of benefits as from 01.08.2013. Inland waterways shipping: Adjustment of indexation mechanism (on scale and actual salaries) as from 01.01.2014. Repeal of compensation for dirty, insalubrious and incommodious cargos for internal navigation and Rhine navigation as from 01.01.2014. Change in Dutch-language name (estuary navigation) as from 01.01.2014. Repeal of bonus for reduced-crew boats as from 01.01.2014. Adjustment of scale salaries, compensation and guaranteed average monthly minimum income as from 01.08.2013.
203	**White-collar employees in small-granite quarries:** Adjustment of scale salaries and periods of equivalent of experience as from 01.01.2013.
216	**White-collar employees employed in the offices of notaries public:** - 0.11% of index on all salaries.
219	**Technical verification and compliance assessment services and bodies:** Reform of age-linked scales: extension of the transitional measure until 31.12.2014
303.3	**Cinema operators:** Blue-collar employees: blue-collar employees who, for the first time, reach (increased) seniority between 01.08.2013 and 31.12.2013, will meanwhile receive the higher annual seniority bonus and the lower one from 01.12.2013.
308	**Mortgage loan, savings and capitalisation companies:** - 0.17% of index only on minimum salaries.
309	**Stockbroking companies:** - 0.16920% of index on minimum salaries and salaries actually paid (up to the same amount).
310	**Banks:** - 0.17% of index only on minimum salaries.
319.02	**Education and lodging service establishments of the French Community, the Walloon Region and the German-speaking Community:** German-speaking Community: adjustment of scale salaries as from 01.01.2013.
326	**Gas and electricity:** - 0.08% of index only on minimum salaries.

327.1	**Adapted work undertakings subsidised by the Flemish Community or the Flemish Community Commission and social workshops accredited and/or subsidised by the Flemish Community:** Grant of an annual bonus of – €197.84 (negative amount) to training staff at protected workshops accredited by the Flemish Fund for the Social Integration of Persons with a Disability. This bonus is increased by 5.07% of annual pay (basic gross monthly salary in August x 12). Reference period from 01.09.2013 to 31.08.2014.
327.2	**Adapted work undertakings subsidised by the French Community Commission:** Grant of an exceptional bonus of €49 for reference year 2013 (with the 2013 end-of-year bonus), as from 01.12.2013.
330	**Health service establishments:** Private hospitals, homes for the elderly, rest and care homes: supplementary annual bonus for nursing staff of €1,205.58 (individual professional qualification) or €3,616.84 (individual professional title).

If you are affiliated to the payroll and HR services bureau but are looking for information on index forecasts for other industries that concern you, please e-mail ***previsionsindex@partena.be.***

Olivier Henry, *Legal Counsel*

COLOPHON

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