

# m&mento

## of the employer 4

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



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# Terminating a fixed-term contract: new rules

The Single Employment Status (Manual and Non-manual Workers) Act of 26 December 2013 not only overhauled notice periods, it also made changes to the existing termination rules and introduced new ones. Most of the changes and new arrangements concern termination of fixed-term employment contracts and contracts for clearly defined work. Contracts for a fixed term (or for clearly defined work) normally end when the term agreed by the parties expires (or the specific work is completed). Either party, however, may choose to end the employment relationship with immediate effect before the expiry date set when the contract is formed.

## 01 Termination at the agreed term

Fixed-term contracts expire automatically on the date agreed by the parties. No reminder notice is required; for the sake of certainty, however, it is preferable to give a reminder that the agreed period will shortly be running out. No notice of termination need be given or severance payment made, therefore, because the parties' intention when entering into the contract was that the employment relationship should be temporary.

Note also that the contract will terminate at the end of the period set even if performance of the contract has been interrupted (e.g., work incapacity, annual

holidays) and/or is still interrupted at the expiry date. Any periods of interruption do not defer the expiry date set by the parties; in other words, they do not extend the contract period.

If the parties continue performance of the contract after the term has expired it will be subject to the same rules as a permanent (i.e., indefinite length) contract.

It was nevertheless considered for the purposes of this rule that continued employment relations must result from at least a tacit agreement between the





parties. This would obviously not be the case if the worker were to carry on working without his employer's knowledge!

The expiry of the period will also bring to an end any dismissal protection the worker might have been entitled to rely on in cases of unlawful dismissal (e.g., protection for pregnant workers or workers on paternity leave).



**N.B.** – A contract for clearly defined work will terminate automatically upon completion of the task ... Note, however, that unlike fixed-term contracts, breaks in the contract (e.g., due to work incapacity) are liable to have a knock-on effect on the expected date of completion of the task...

## 02 Termination before the agreed term

A fixed-term contract or a contract for clearly defined work may be terminated at any time for good cause, by the death of the worker, by a frustrating event (force majeure) or agreement of the parties.

It may also be terminated before the agreed term unilaterally by either party or even during a period of incapacity for work (non-manual and manual employees alike)...

of 3 July 1978 to pay the other party **compensation** (= a penalty) equal to the pay accruing up to the term, capped at an amount of twice the pay in lieu of the period of notice that should have been given had the contract been one of indefinite length.



**N.B.** – The period of notice that should have been given is calculated only on the basis of the worker's continuous employment.

### 1 Unilateral termination

Whatever the period set when the contract was entered into, both employer and employee may terminate the contract without notice before the expiry of the term or before completion of the work. A severance payment must normally be made in the case of such a termination. However, **since 1 January 2014**, notice may now be given during the first half of the agreed term of the contract.

#### → General rule

Early termination of the employment relationship (i.e., before the agreed term) without good cause is in principle unlawful.

The terminating party (employer or employee) will in this case be **liable** under a general principle contained in Section 40 § 1 of the Employment Contracts Act

The statutory principle in force before 1 January 2014 is maintained, but the period of notice to be taken into account (in calculating the compensation) is now that fixed under the new rules applicable from 1 January 2014. These notice periods are shown in the table below.

#### **Example 1:**

*An employee is hired on 1 February 2014 on a 1 year fixed-term contract (from 01.02.2014 to 31.01.2015). The employer terminates the contract at the end of the 4<sup>th</sup> month. He would normally therefore have to pay compensation equal to 8 months' pay. However, the compensation will be reduced to 8 weeks, i.e., twice what would have been paid had the employee been hired for an indefinite period (4 weeks for 3 to 6 months' employment, times 2).*




**Example 2:**

An employee is hired on a fixed-term contract running from 1 July 2013 to 31 December 2014 on a gross annual salary of more than €32,254.

The employer terminates the contract on 4 April 2014. The termination is before the agreed expiry date so the employer will be liable to make a severance payment. How many weeks and/or months' salary will he have to pay as compensation?

In this case, the amount of severance payment will have to be calculated applying the "step-up system" in force from 1 January 2014 because the employee was hired before that date.

The contract was terminated on 4 April 2014; the employer would therefore be liable to make a severance payment equal to approximately 9 months' salary; but the payment will be capped at twice the amount of pay in lieu of the notice that should have

been given had the employee been hired for an indefinite period.

In this case, the relevant notice period should be calculated by applying the step-up system as follows:

- **Step 1:** 6 months' service at 31.12.2013; for an employee whose annual salary exceeds €32,254: one month's notice for every year of service commenced with a minimum of 3 months;
- **Step 2:** three months' service for the period from 01.01.2014 to 04.04.2014: 4 weeks' notice;
- **Step 3:** total notice: 3 months and 4 weeks.

The amount of the severance payment cannot therefore be more than the salary for a period of **6 months and 8 weeks**, i.e., twice the period of notice that should have been given had he been employed under a permanent contract.

**Table – Periods of notice (dismissal, resignation) effective from 01.01.2014**

Phases	Length of service	Length of notice to be given	
		By the employer	By the worker
Phase 1	less than 3 months	2 weeks	1 week
	3 months to less than 6 months	4 weeks	2 weeks
	6 months to less than 9 months	6 weeks	3 weeks
	9 months to less than 12 months	7 weeks	3 weeks
	12 months to less than 15 months	8 weeks	4 weeks
	15 months to less than 18 months	9 weeks	4 weeks
	18 months to less than 21 months	10 weeks	5 weeks
	21 months to less than 24 months	11 weeks	5 weeks
	2 years to less than 3 years	12 weeks	6 weeks
	3 years to less than 4 years	13 weeks	6 weeks
	4 years to less than 5 years	15 weeks	7 weeks
	Phase 2	5 years to less than 6 years	18 weeks
6 years to less than 7 years		21 weeks	10 weeks
7 years to less than 8 years		24 weeks	12 weeks
8 years to less than 9 years		27 weeks	13 weeks
9 years to less than 10 years		30 weeks	13 weeks
10 years to less than 11 years		33 weeks	13 weeks
11 years to less than 12 years		36 weeks	13 weeks
12 years to less than 13 years		39 weeks	13 weeks
13 years to less than 14 years		42 weeks	13 weeks
14 years to less than 15 years		45 weeks	13 weeks
15 years to less than 16 years		48 weeks	13 weeks
16 years to less than 17 years		51 weeks	13 weeks
17 years to less than 18 years		54 weeks	13 weeks
18 years to less than 19 years		57 weeks	13 weeks
19 years to less than 20 years		60 weeks	13 weeks





Phases	Length of service	Length of notice to be given	
		By the employer	By the worker
Phase 3	20 years to less than 21 years	62 weeks	13 weeks
	21 years to less than 22 years	63 weeks	13 weeks
	22 years to less than 23 years	64 weeks	13 weeks
	23 years to less than 24 years	65 weeks	13 weeks
	24 years to less than 25 years	66 weeks	13 weeks
	25 years to less than 26 years	67 weeks	13 weeks
	26 years to less than 27 years	68 weeks	13 weeks
	27 years to less than 28 years	69 weeks	13 weeks
	28 years to less than 29 years	70 weeks	13 weeks
	29 years to less than 30 years	71 weeks	13 weeks
	30 years and more	One additional week per year of service commenced	13 weeks

**Calculating the severance payment** – The severance payment will include not only current pay but also all fringe benefits vested under the contract. For a contract for clearly defined work, the severance payment will be equal to the pay that would have been owed for the period still required to complete the task. This can be estimated on the basis of the time required for another worker to complete the task (Brussels Labour Court, 27 June 2001, JTT, 2002, p. 8).

→ **Giving notice during the first half of the contract (maximum 6 months)**

**General rule** – Since the probationary period was abolished by the Single Employment Status Act of 26 December 2013, each party **may now since 1 January 2014** terminate the contract by notice **during the first half of the agreed term of the contract**; however, not more than 6 months’ notice may be given (s. 40, § 2).

**Examples:**

- A contract for a fixed term of 8 months can be terminated by notice during the first 4 months.
- A contract for a fixed term of 20 months can be terminated by notice during 6 months - not during the first 10 months (limited to 6 months maximum!).

This option to terminate by notice applies only to **employment contracts entered into from 1 January 2014** (Single Employment Status Act of 26 December 2013, s.113).

Notice must be given in the same manner as for a permanent contract and will also start to run from the Monday following the week in which notice is given.

The periods of notice to be given are the same as those for termination of a permanent contract.



**Note** – The ability to terminate a fixed-term contract by notice in the first half of the agreed contract term (with a maximum of 6 months) does not need to be mentioned in the employment contract or works rules because it is a statutory right and as such, universally applicable.

**Five key points:**

- 1 The period in which the parties can give notice is a **fixed period**. This means it will not be **interrupted** by the occurrence of breaks in performance of the contract (e.g., illness, annual holidays).
- 2 The period starts to run from the contract commencement date. “Contract commencement date” means the date starting from which the employment contract is or should have been performed. In other words, it is the date set for performance by the parties. The fact that the contract cannot actually be performed – e.g., due to illness – is irrelevant.



**Example:**

An employment contract is entered into on 17 March 2014 for a fixed term of one year. The contract commencement date is set as 1 April 2014 but the worker is incapacitated for work from 24 March to 20 April such that actual contract performance does not take place until 21 April 2014. In this case, the period in which notice can be given will nevertheless start on 1 April and end on 30 September 2014.

- 3 A party who unilaterally terminates a fixed-term employment contract or one for clearly defined work in the period in which notice can be given but fails to observe the ordinary notice period will be liable to make severance payment in lieu of notice equal to the salary for the period of notice that was not given.
- 4 Furthermore, if a contract for a fixed term or for clearly defined work is terminated by notice, the contract must always end within the period in which notice is permitted to be given (according to the Explanatory Memorandum to the Act of 26 December 2013).  
In other words, the notice must run out no later than the final day of the period during which notice can be given.  
If the contract actually ends after this period, the party terminating without good cause before the agreed term will (again according to the Explanatory Memorandum to the Act) have to make the severance payment provided for in Section 40 § 1 to the other party, i.e., the amount equal to the amount of salary that would have accrued up to the end of the contract, subject to the proviso that such amount may not exceed twice the pay in lieu of the period of notice that should have been served had the contract been one of indefinite length.

**Example:**

A fixed-term contract entered into on 15 April 2014 commences on 1 May 2014 for a period of 10 months.  
The contract can be terminated by notice up to 30 September (i.e., 5 months later).  
The employer serves four weeks' notice on 27 August 2014 starting to run from 1 September

and theoretically ending on 28 September (i.e., before the 30 September deadline!).  
During the notice period, the worker is incapacitated for work for 10 calendar days (from 8 to 17 September inclusive). The notice period is suspended for 10 calendar days, which effectively postpones the actual end of the contract until after 30 September (i.e., until 8 October 2014.) the notice will therefore run out after the period in which notice is permitted..  
In such circumstances, the employer should either terminate the contract immediately on 30 September, making a severance payment equal to 8 calendar days, or wait until 8 October 2014 and make a severance payment in accordance with the general rules. ...!

- 5 Where the parties have entered into a **series of fixed-term contracts** or ones for clearly defined work (provided the succeeding contracts are lawful under the statutory provisions), only the first contract entered into for a fixed-term or clearly defined work can be terminated unilaterally by notice (s. 40, § 3). This will be so even if the employee is hired for a different position under a second fixed-term contract.

**What about contracts for clearly defined work?**

If a contract of employment of indefinite length is entered into for clearly defined work, the parties would be well-advised to mention in the contract the time within which the (clearly defined) work is expected to be completed so as to be able to determine what half of that period would be in which the contract could be terminated by notice.

Failing that and/or if the parties are in dispute, the matter will have to go to the labour courts and tribunals to rule on whether the notice was given during the first half of the contract period.

**A permanent contract immediately following a fixed-term contract** – A permanent contract (CDI) can follow immediately on from a fixed-term contract (CDD) which commenced before 1 January 2014. The question then arises what notice must be given in the event of dismissal (or resignation) under the permanent contract.





The FPS Employment, Labour and Social Dialogue and the ONeM both consider that as the permanent contract was entered into after 1 January 2014, it must be terminated in accordance with the rules in force from 1 January 2014, i.e., on the basis of the common, ordinary notice periods set for manual and non-manual workers (see Table 1). However, the worker's reckonable length of service must be determined on the basis of his periods of employment under both the CDI and the CDD.

**Example:**

*A worker was hired under a fixed-term contract (CDD) which commenced on 1 April 2013 for a period of 14 months, i.e., running out on 31 May 2014. A permanent contract (CDI) followed immediately on from the fixed-term contract (CDD) but was terminated by the employer on 16 June 2016.*

*What period of dismissal notice must be given?*

*Because performance of the contract commenced after 1 January 2014, the new uniform periods of notice set for manual and non-manual workers from 1 January 2014 will apply.*

*By contrast, the worker's length of service on the day of termination is determined on the basis of his length of service since the date he was first taken on - 1 April 2013.*

*His reckonable length of service in this case is 38.5 months (9 + 12 + 12 + 5.5), i.e., 3 years and 2.5 months.*

*For that length of service, the employer must give 13 weeks' notice (length of service from 3 years to less than 4 years, see Table 1 above).*

## 2 Termination of a fixed-term contract during incapacity for work

If the worker (manual or non-manual) is incapacitated for work as a result of sickness or an accident, the employer may, in two specific cases, terminate the fixed-term contract or contract for clearly defined work before its normal expiry date:

- if the contract is for a term under 3 months, then after the period in which the employer can terminate it by notice has expired (see above), the employer can terminate the contract without paying compensation after an incapacity for work (whether work-induced or not) of **7 continuous calendar days** (s. 37/9); dismissal in this manner can take place at the earliest from the 8th day of incapacity;
- if the employment (for a fixed term or for clearly defined work) is for a period of at least 3 months, the contract may be terminated by the employer after more than 6 months' incapacity subject to making a severance payment equal to the pay accruing to the agreed term or during the period necessary to complete the work for which the worker was engaged, with a maximum of 3 months and less the amount of salary paid since the start of the work incapacity (s. 37/10). ■

**Francis Verbrugge**, Senior Legal Counsel



## Social news

# Monthly notification of the 1<sup>st</sup> actual day of temporary unemployment: more details on the time limit for notification

Employers who make use of temporary unemployment are in particular obliged to notify the ONEm (National Employment Office) each month and within a specified period, of the 1<sup>st</sup> actual day of unemployment. Since 23 March 2014, this time limit has been made more flexible.

The monthly notification of the 1<sup>st</sup> actual day of temporary unemployment must be carried out:

- in case of temporary unemployment due to a **technical fault** (manual workers) or due to **bad weather** (manual workers):
  - the **1<sup>st</sup> day of actual suspension** of the performance of the employment contract (which, for the 1<sup>st</sup> month in case of a technical fault, follows the 7-day period during which the employer must pay the regular wage);
  - or the following **working day**;
  - or the preceding **working day** (if the employer knows with certainty that the performance of the employment contract will actually be suspended);
- in case of temporary unemployment (manual workers) or suspension (non-manual workers) because of lack of work due to **economic reasons**:
  - the **1<sup>st</sup> day of actual suspension** of the performance of the employment contract;
  - or the following **working day**;
  - or **at the earliest on the 5<sup>th</sup> working day** preceding it (if the employer knows with certainty that the performance of the employment contract will actually be suspended).



**NB!** – The notification can be cancelled within a period that is between the 5<sup>th</sup> working day prior to the 1<sup>st</sup> day of actual suspension and the following working day.

In accordance with the instructions of the ONEm (National Employment Office), ‘working day’ is

understood to mean any day of the week, except for weekends, bank/public holidays, substitute public holidays and bridging days.

**Example 1** – A manual worker who works a 5-day week, Mondays to Fridays, is being temporarily laid off due to lack of work for economic reasons from Monday, 14 April 2014. In this case, the monthly notification of the 1<sup>st</sup> actual day of temporary unemployment can be carried out:

- on 14 April 2014;
- or on 15 April 2014;
- or at the earliest on 7 April 2014 (if the employer knows with certainty that the performance of the employment contract will actually be suspended).

**Example 2** – A manual worker who works a 2-day week, Mondays and Thursdays, is being temporarily laid off due to lack of work for economic reasons from Monday, 14 April 2014. In this case, the monthly notification of the 1<sup>st</sup> actual day of temporary unemployment can be carried out:

- on 14 April 2014;
- or on 15 April 2014;
- or at the earliest on 7 April 2014 (if the employer knows with certainty that the performance of the employment contract will actually be suspended).

**Example 3** – A manual worker who works a 3-day week, Tuesdays to Thursdays, is being temporarily laid off due to bad weather from Thursday, 8 May 2014. In this case, the monthly notification of the 1<sup>st</sup> actual day of temporary unemployment can be carried out:

- on 8 May 2014;
- or on 9 May 2014;
- or on 7 May 2014 (if the employer knows with certainty that the performance of the employment contract will actually be suspended). ■

**Catherine Mairy**, Legal Counsel





## Social news

## Sector of construction sites: preliminary declaration of work

There are two changes with regard to the obligations for the sector of construction sites:

- The preliminary declaration of work: this obligation already exists but on 1 January 2014, the application field of this obligation has undergone changes;
- The electronic recording of attendances: this regards a new obligation as from 1 April 2014 (see the next article).

This article will inform you on the 1<sup>st</sup> obligation.

The Act of 8 December 2013 has implemented a simplification: the legislator would like to harmonize the various declarations which have to be submitted to the different authorities by virtue of the diverse legislations (social security and well-being at work). As from 1 January 2014 the different declarations will be done via the National Social Security Office (NSSO) through an IT application.

### Principle

The preliminary declaration of work already existed and was mandatory since 1 June 2009, except for the work for which the entrepreneur has not appealed to a subcontractor and of which the total amount was under € 25,000 (excluding VAT).

Must be preliminarily declared to the NSSO since 1 January 2014:

- the construction work for the entrepreneur/

principal who appeals to at least one subcontractor for work exceeding a total amount of € 5,000 (excluding VAT);

- the construction work for the entrepreneur/principal whether or not he appeals to a subcontractor for work exceeding a total amount of € 30,000 (excluding VAT);

Construction work is understood to mean the work referred to in article 30bis of the Act of 27 June 1969 for the revision of the Decree-Law of 28 December 1944 on social security for workers.



**Remark** – are also in the scope of this preliminary declaration of work, the surveillance and/or security services and the meat sector (article 30ter of that same Act of 27 June 1969).

### Steps to be taken by the entrepreneur

Consult the website of the NSSO through the following link [https://www.socialsecurity.be/site\\_nl/employer/applics/ddt/index.htm](https://www.socialsecurity.be/site_nl/employer/applics/ddt/index.htm) for more details regarding the activities to which this preliminary declaration applies.

The declaration of work has to be submitted by you on the same website of the NSSO. ■

*Anne Ghysels, Legal Counsel*



## Social news

# New obligation for the sector of construction sites: electronic attendance recording

There are two changes with regard to the obligations for the sector of construction sites:

- The declaration of work since 1 January 2014 (see the article above);
- The recording of attendance from 1 April 2014.

The second obligation is examined further in this article.

The Act of 8 December 2013 embodies the obligation of attendance recording for those present at temporary or mobile construction sites. As a measure against fraud, it should be clear who is present at the construction site, when, for whom work is carried out and under which status (employee or self-employed worker).

## Construction sites concerned

‘Temporary or mobile construction sites’ are understood to mean any place where the activities are performed specified in Article 30bis § 1, 1<sup>o</sup> a) of the Act of 27 June 1969 revising the Decree-Law of 28 December 1944 on social security for workers, that is to say: hydraulic, maritime and river works, earthworks, demolition work, masonry and concreting works, laying of cables and various pipelines, pointing, carpentry, joinery and metal joinery work, roofing and waterproofing works, thermal and/or acoustic insulation work, placement of pre-cast units, placement of wooden objects or products, glazing work, plastering work, painting, upholstering and wall papering work, refurbishment work, stone and marble works, floor and wall covering work (except wood), sanitary works, central heating, plumbing and zinc work, installation of pipes and drains, installation of scaffolding, metal constructions and metal engineering works, road-works, non-metal engineering works, railway engineering works, electrical engineering works, grounds landscaping and maintenance, agricultural work, cleaning and upkeep work, special installations.

This new obligation only applies to works on construction sites with a total value that is equal to or greater than € 800,000 excluding VAT.

The ONSS, the National Social Security Office (NSSO) specifies on its website ‘checkin@work’ ([https://www.socialsecurity.be/site\\_fr/employer/infos/checkinatwork/what.htm](https://www.socialsecurity.be/site_fr/employer/infos/checkinatwork/what.htm)) that the amount of € 800,000 excluding VAT is determined by taking into account all budgeted works performed by contractors on the basis of contracts with a single client, even if the works are subdivided into several lots.

## Persons concerned

The presence of the following persons on one of the construction sites mentioned above must be recorded:

- employers and self-employed workers who carry out activities as a contractor or subcontractor during the project execution;
- workers who carry out tasks for the employers mentioned above;
- the project supervisor responsible for the design, execution and/or supervision of the execution;
- the coordinator for safety and health matters at the project preparations stage and/or during execution of the project.

## The data to be recorded

The following data must be recorded:

- the identification data of the natural person (national number or number of receipt notice L1 for foreign workers (self-employed worker or employee));
- the address or description of the geographical location of the construction site;
- the capacity in which the person concerned





- carries out his activities at the construction site (employee, self-employed worker, project supervisor, employer, coordinator, ...);
- the identification data of the employer when the person doing the recording is a worker (company number);
  - when the person is self-employed, the identification data of the natural or legal person by whose order the work is being carried on;
  - the identification number of the declaration of work in accordance with Article 30bis;
  - the time of recording.

## How?

For each temporary or mobile construction site concerned, the presence of each natural person described above should be recorded:

- either by means of an electronic recording system comprising:
  - a database managed by the NSSO on behalf of the FPS Employment, Labour and Social Dialogue;
  - a recording device for collecting data 'online';
  - a means of recording to prove the identity of the person doing the recording (electronic identity or residence card)
- or by means of another system (= alternative system) used by or made available to subcontractors insofar as this device provides equivalent guarantees to the electronic recording system described above. This alternative system allows a remote, preliminary recording via the interface provided by the NSSO.

The project supervisor responsible for the execution must make the recording system described under a) available (that is to say, deliver, install and ensure the proper functioning of the recording device) to the contractors that provide services to him, unless agreed by mutual consent to use the alternative system.

The contractor himself must make it available to his subcontractors and so on in the chain of subcontracting.

The employer is responsible for the recording by his workers: he must provide them with the means of recording that is compatible with the recording device used at the construction site.

The project supervisor responsible for the execution, the contractor or subcontractor who calls on a self-employed worker ensures that this means of recording is delivered to this self-employed worker. When temporary workers are brought in, this obligation rests with the user and not with the temporary work agency.

## Where?

Electronic attendance recording can be done at the construction site or not. If recording is not done at the construction site, the alternative recording system should offer the same guarantees as on-site recording.

## When?

Attendance recording must be immediate (that is to say before the person concerned enters the construction site) and daily.

It may be anticipatory (up to 31 calendar days before the presence of the person concerned at the construction site) if done by an alternative system, as referred to above.

The NSSO sends a receipt notice to the recording device after recording the data.

## Control and sanctions

Social inspectors and inspectors of social security bodies can consult the data contained in the recording system, exchange them and use them as part of their mission.

The inspection services that check that the attendance recording was done correctly are the Directorate General for Supervision of Social



Legislation and the Directorate General for Monitoring of Well-being at Work of the FPS Employment, Labour and Social Dialogue, the Directorate General Social Inspection of the FPS Social Security, the NSSO, the National Employment Office (ONEm), the Fund for Industrial Accidents, the Fund for Occupational Diseases, the National Institute for the Social Security of the Self-Employed (INASTI), the National Institute of Health and Disability Insurance (INAMI), the National Office for Annual Leave (ONVA), the National Office for Family Allowance (ONAFST), the National Pensions Office (ONP), the NSSO of the provincial and local administrations (ONSS-APL).

May be subject to sanctions (criminal or administrative fines):

- any person who does not record his presence immediately and daily;
- the project supervisor responsible for the execution, the contractor or subcontractor who fails to meet his obligations;
- the employer who does not provide a means of recording to his workers that is compatible with the recording device used at the construction site.

The sanction may be increased if the breach committed resulted in health problems or an industrial accident for a worker.

The fine is multiplied by the number of people affected by the breach.

## Entry into force

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Attendance recording will be mandatory from 1 April 2014.

The sanctions come into force on 1 October 2014. ■

**Anne Ghysels**, *Legal Counsel*



## Remuneration

# Wage adjustments in April 2014

### Index figures for March 2014

Consumer price index 2013 → 100,72 (+0.06)

Health index 2013 → 100,79 (+0.04)

Averaged quarterly health index → 100,64 (+0.13)

### Collectively negotiated indexations and increases: selected forecasts

Joint Bargaining Committee (CP) 218 → approx. +0.90% indexation in January 2015

Average monthly minimum wage/Welfare benefits → +2% in December 2014

Wage indexations and adjustments in April 2014	
102.8	<b>Marble quarries and sawmills throughout Belgium:</b> +1% indexed increase on all wages Increased employer's contribution to luncheon vouchers
102.11	<b>Slate quarries, coticule quarries and grindstone quarries for razors in the provinces of Walloon Brabant, Hainaut, Liège, Luxemburg and Namur:</b> +1% indexed increase on all wages
106.1	<b>Cement works:</b> +0.13% indexed increase only on the minimum wages
109	<b>Clothing enterprises:</b> +0.37% indexed increase on all wages Abolition of degression for starters younger than 18 years, except for students and young people combining work and education
113.4	<b>Tile works:</b> +0.32% indexed increase on all wages
114	<b>Brickworks:</b> +0.50% indexed increase on all wages
115	<b>Glass industry:</b> Adjustment of the index system for the minimum subsistence security allowance from 01.09.2013
116	<b>Chemical industry:</b> Plastic processing industry in the province of Limburg: Adjustment of the employer part in the luncheon vouchers and of the subsistence security allowance (temporary unemployment, illness, pregnancy, industrial accident) from 01.01.2014
117	<b>Oil industry and retail trade:</b> +0.13% indexed increase only on the minimum wages
120	<b>Textiles and knitwear industry:</b> Adjustment of the work clothing allowance from 01.01.2014
120.2	<b>Flax processing:</b> +0.28% indexed increase on minimum wages (+wage differential) and wages actually paid
120.3	<b>Manufacture and sale of jute or substitute material bags:</b> +0.70% indexed increase on all wages
124	<b>Construction:</b> +0.297% indexed increase on minimum wages and wages actually paid (up to the same amount), i.e. category I: €13.356/h (+€0.040/h); category II: €14.237/h (+€0.042/h); category III: €15.142/h (+€0.045/h); category IV: €16.072/h (+€0.048/h)
125.1	<b>Forestry:</b> +0.29% indexed increase only on the minimum wages
125.2	<b>Sawmills and allied industries:</b> +0.29% indexed increase on minimum wages and wages actually paid (up to the same amount)
125.3	<b>Timber trade:</b> +0.29% indexed increase on all wages
126	<b>Furniture and woodworking industry:</b> +0.74% indexed increase on minimum wages and wages actually paid (up to the same amount) in a regime of 37h20/week. Adjustment of the complementary bridging pension allowances: +0.74%
127/	<b>Fuels trade:</b>
127.2	Adjustment of the subsistence allowance





## Wage indexations and adjustments in April 2014

128.1- 2-3-5-6	<b>Hides, skins and substitutes industry:</b> +0.34 % indexed increase on all wages
132	<b>Agricultural and horticultural engineering work contractors:</b> +0.72% indexed increase on all wages
133.1 to 3	<b>Tobacco industry:</b> +0.32% indexed increase on all wages
136.1	<b>Paper and paperboard converting:</b> Manufacturing of paper tubes: +0.30% indexed increase on all wages
142.1	<b>Metal recovery:</b> Introduction of a subsistence security allowance in case of temporary unemployment due to economic reasons from 01.01.2014
143	<b>Offshore fishing:</b> +0.4993% indexed increase on all wages Sector of warehouses: annual gross premium of €150 unless company provides equivalent benefit. Prorated for part-timers
145.4	<b>Planting and upkeep of parks and gardens:</b> Adjustment of the working time from 01.01.2014
146	<b>Forestry:</b> +0.74% indexed increase on all wages
148.1	<b>Animal shearing and skinning:</b> +0.28% index on all wages (new biannual index system)
148.3	<b>Industrial and traditional manufacturing of fur goods:</b> +1.98% index increase on all wages (new biannual index system)
148.5	<b>Tanning industry:</b> +0.37% indexed increase on all wages (new biannual index system)
152	<b>Subsidized non-state education institutions:</b> French and German-speaking Communities: introduction of a work clothing allowance from 01.03.2014
201	<b>Independent retail trade:</b> Award of a premium of €188 gross or eco vouchers of €250. Qualifying period from 01.04.2013 to 31.03.2014. Prorated for part-timers. Not applicable for students. Possibility to negotiate other rules in companies with a trade union
202.1	<b>Medium-sized food companies:</b> Award of a premium of €188 gross or eco vouchers of €250. Qualifying period from 01.04.2013 to 31.03.2014. Prorated for part-timers. Not applicable for students. Possibility to negotiate other rules in companies with a trade union
209	<b>Employees of the metalworks:</b> Adjustment of the temporary unemployment allowance
215	<b>Employees of clothing enterprises:</b> +0.37% indexed increase on minimum wages and wages actually paid (up to the same amount) Adjustment of the threshold for private transport costs
219	<b>Services and institutions for technical controls and conformity checking:</b> +1.12% indexed increase on all wages
301	<b>Dock industry:</b> +1,60% indexed increase only on the minimum wages as from the morning duty of 07.04.2014
301.1 to 5	<b>Ports of Antwerp, Ghent, Brussels, Vilvorde, Ostend, Nieuport and Zeebrugge-Bruges:</b> +1,60% indexed increase only on the minimum wages as from the morning duty of 07.04.2014
303	<b>Film industry:</b> +2% indexed increase on all wages
303.1	<b>Film production:</b> +2% indexed increase on all wages
311	<b>Large retail companies:</b> Abolition of starting ages (cat. 3, 4 and 5) from 01.01.2014. Adjustment of the average monthly minimum income from 01.11.2012
317	<b>Security guard and/or watchkeeping services:</b> Introduction of hourly wage 8A for agents escorting exceptional traffic from 01.01.2014
320	<b>Funeral directors:</b> +2% indexed increase on all wages
321	<b>Wholesale pharmaceutical distributors:</b> +2% indexed increase on all wages





## Wage indexations and adjustments in April 2014

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### Temporary agency work and accredited undertakings providing community-based work or services:

Increase for the period from 01.04.2014 until 31.12.2014 of the pension premium in JC no. 323 paid by the employment agency and set at 1.65% (non-intellectual workers) or 1.71% (intellectual workers) of the gross wage of the temporary worker

Extension for the period from 01.01.2014 until 31.12.2015 of the pension premium in JC no. 106.02 paid by the employment agency and set at 0.82% of the gross wage of the temporary worker

Increase and extension for the period from 01.01.2013 until 31.12.2013 of the pension premium in JC no. 111.01-02 paid by the employment agency and set at 1.25% (Flemish provinces and Fabricom) or 1.12% (Walloon provinces and Brussels Capital Region) of the gross wage of the temporary worker

Extension for the period from 01.01.2013 until 31.12.2013 of the pension premium in JC no. 111.03 paid by the employment agency and set at 1.25% of the gross wage of the temporary worker

Extension for the period from 01.01.2014 until 31.12.2015 of the pension premium in JC no. 111.03 paid by the employment agency and set at 1.25% of the gross wage of the temporary worker

Extension for the period from 01.01.2014 until 31.12.2015 of the pension premium in JC no. 112 paid by the employment agency and set at 1.06% of the gross wage of the temporary worker

Extension for the period from 01.01.2014 until 31.12.2015 of the pension premium in JC no. 116 paid by the employment agency and set at 0.15% of the gross wage of the temporary worker

Extension for the period from 01.01.2014 until 31.12.2015 of the pension premium in JC no. 117 paid by the employment agency and set at 0.61% of the gross wage of the temporary worker

Extension for the period from 01.01.2014 until 31.12.2015 of the pension premium in JC no. 120.02 paid by the employment agency and set at 0.40% of the gross wage of the temporary worker

Extension for the period from 01.01.2014 until 31.01.2014 of the pension premium in JC no. 121 paid by the employment agency and set at 0.99% of the gross wage of the temporary worker

Extension for the period from 01.01.2014 until 31.12.2015 of the pension premium in JC no. 121 paid by the employment agency and set at 1.13% of the gross wage of the temporary worker

Extension for the period from 01.01.2014 until 31.01.2014 of the pension premium in JC no. 126 paid by the employment agency and set at 0.39% of the gross wage of the temporary worker

Extension for the period from 01.01.2014 until 31.12.2015 of the pension premium in JC no. 126 paid by the employment agency and set at 0.45% of the gross wage of the temporary worker

Extension for the period from 01.01.2014 until 31.12.2015 of the pension premium in JC no. 127-127.2 paid by the employment agency and set at 1.98% of the gross wage of the temporary worker

Extension for the period from 01.01.2014 until 31.12.2015 of the pension premium in JC no. 130 paid by the employment agency and set at 0.35% of the gross wage of the temporary worker

Extension for the period from 01.01.2014 until 31.01.2014 of the pension premium in JC no. 132 paid by the employment agency and set at 0.90% of the gross wage of the temporary worker

Extension for the period from 01.02.2014 until 31.12.2015 of the pension premium in JC no. 132 paid by the employment agency and set at 1.23% of the gross wage of the temporary worker

Extension for the period from 01.01.2014 until 31.12.2015 of the pension premium in JC no. 142.01 paid by the employment agency and set at 1.06% of the gross wage of the temporary worker

Extension for the period from 01.01.2014 until 31.12.2015 of the pension premium in JC no. 143 paid by the employment agency and set at 0.82% of the gross wage of the temporary worker

Extension for the period from 01.01.2014 until 30.06.2014 of the pension premium in JC no. 144 paid by the employment agency and set at 0.90% of the gross wage of the temporary worker

Extension for the period from 01.01.2014 until 30.06.2014 of the pension premium in JC no. 145 paid by the employment agency and set at 0.90% of the gross wage of the temporary worker

Extension for the period from 01.01.2014 until 31.12.2015 of the pension premium in JC no. 149.01 paid by the employment agency and set at 1.12% of the gross wage of the temporary worker





## Wage indexations and adjustments in April 2014

322	<p>Extension for the period from 01.01.2014 until 31.12.2015 of the pension premium in JC no. 149.02 paid by the employment agency and set at 1.19% of the gross wage of the temporary worker</p> <p>Extension for the period from 01.01.2014 until 31.12.2015 of the pension premium in JC no. 149.04 paid by the employment agency and set at 1.12% of the gross wage of the temporary worker</p> <p>Extension for the period from 01.01.2014 until 31.12.2015 of the pension premium in JC no. 207 paid by the employment agency and set at 0.16% of the gross wage of the temporary worker</p> <p>Extension for the period from 01.01.2014 until 31.12.2015 of the pension premium in JC no. 209 paid by the employment agency and set at 0.75% of the gross wage of the temporary worker</p> <p>Extension for the period from 01.01.2014 until 31.12.2015 of the pension premium in JC no. 216 paid by the employment agency and set at 3.56% of the gross wage of the temporary worker</p> <p>Extension for the period from 01.01.2014 until 31.12.2014 of the pension premium in JC no. 302 paid by the employment agency and set at 0.33% (non-intellectual workers) and 0.34% (intellectual workers) of the gross wage of the temporary worker</p> <p>Extension for the period from 01.01.2014 until 31.12.2015 of the pension premium in JC no. 304 paid by the employment agency and set at 0.99% (non-intellectual workers) or 1.03% (intellectual workers) of the gross wage of the temporary worker</p> <p>Extension for the period from 01.01.2014 until 31.01.2014 of the pension premium in JC no. 317 paid by the employment agency and set at 0.16% (non-intellectual workers) or 0.17% (intellectual workers) of the gross wage of the temporary worker</p> <p>Increase for the period from 01.02.2014 until 31.12.2015 of the pension premium in JC no. 317 paid by the employment agency and set at 0.33% (non-intellectual workers) or 0.34% (intellectual workers) of the gross wage of the temporary worker</p> <p>Extension for the period from 01.01.2014 until 31.03.2014 of the pension premium in JC no. 323 paid by the employment agency and set at 1.32% (non-intellectual workers) or 1.37% (intellectual workers) of the gross wage of the temporary worker</p>
326	<b>Gas and electricity industry:</b> +0.13% indexed increase on minimum wages only
332	<p><b>French and German-speaking social assistance and health care sector:</b> SOS-Children: next phase in the alignment of the scales from 01.03.2014.</p> <p>'Milieux d'accueil de l'enfance':</p> <p>Only for institutions and services taking care of children under 12 years on a regular basis, other than these mainly taking care of children between 0 and 3 years and not aimed by the non-profit agreement 2010-2011 and only for the workers with lower wage scales than these provided by the cba of 17.12.2012 or non-equivalent scales: award of an exceptional premium of €135,44 (for 2013) for all full-time workers that have worked at least 15 weeks in 2013. Payment no later than 31.03.2014 unless the amount is added to the 2013 year-end allowance.</p>
336	<b>Liberal professions:</b> Adjustment of the scaled wages for young people under 21 years, for students or workers in an alternating training regime and for category 4 from 01.01.2014
336	<b>Vrije beroepen:</b> Aanpassing van de schaalnomen voor jongeren onder de 21 jaar, voor studenten of werknemers in een stelsel van alternerende opleiding en voor de categorie 4 vanaf 01.01.2014



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](mailto:previsionsindex@partena.be).

*Olivier Henry, Juridisch adviseur*





## Social news

# Special levy on severance payments to finance the FFE

As of 1 January 2014, employers have to pay a special levy on severance payments made to workers earning salaries of €44,509 and above. The levy is intended to offset the decreased contribution payable to the Business Closure Fund (FFE) by firms employing no more than 20 workers.

The levy was established by Section 95 of the Single Employment Status (Manual and Non-manual Workers) Act of 26 December 2013 which introduced a paragraph 3quindecies into Section 38 of the Social Security for Employed Workers (General Principles) Act of 29 June 1981. The Royal Decree (regulations) of 9 March 2014 (Belgian Official Gazette 03/20/2014, Ed 3) details some components of the formula for calculating the levy.

## Severance payments concerned

The levy is assessed for the first time on severance payments reported in Q1 2014, meaning that the last day of the employment contract must fall no earlier than 1 January 2014.

“Severance payment” means specifically a payment made by the employer:

- for termination of a permanent employment contract without notice or less than full notice;
- for termination of a fixed-term employment contract (= before the expiry of the term) or a contract for clearly defined work (= before completion of the work);
- for termination by mutual agreement.

## Amount of levy

The levy is a graduated percentage charged on the worker’s annual salary. It is set at:

- 1% on an annual salary of between €44,509 and €54,508;
- 2% on an annual salary of between €54,509 and €64,508;
- 3% on an annual salary of €64,509 or above.



**N.B.** – This means that no levy is payable on annual salaries below €44,509.

The annual salary is calculated on the basis of the pay data for the final quarter of paid employment. It is calculated as follows:

full-time workers:  
 $(A/B) \times 260$   
 part-time workers:  
 $[(A/C) \times D/5] \times 260$

where:

- A = gross salary amount to be reported under pay code 1 (“rémunération”). For workers whose holiday pay is paid by a holiday pay fund, the amount must be multiplied by 1.08.  
 B = total days reported under work time code 1 (“prestation”).  
 C = total hours reported under work time code 1 (“prestation”).  
 D = total hours of the benchmark worker (full-time worker in the industry or company).

## Basis for calculating the levy

The levy is due only on the severance payment or that part of it applicable to the period of employment



from 1 January 2014 – i.e., based on the employee's length of service after 1 January 2014.

So, for employment which began before 1 January 2014, the period of notice will, in principle, comprise two parts, in which case the levy will be assessed only on that part of the severance payment relative to the notice calculated

on the period of employment since 1 January 2014.

In other words, that portion of the severance payment for the period of notice "frozen in time" at – i.e., prior to - 31 December 2013 will not be included in calculating the levy. ■

**Francis Verbrugge**, Senior Legal Counsel

## Training

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15/05/2014	Plus (Expert Training)	Gent	NL
19/05/2014	Export Word/Excel (SAM/Level Five)	Brussel	NL
20/05/2014	Export Word/Excel (SAM/Level Five)	Brussel	FR
21/05/2014	De 10 meest gestelde vragen aan het sociaal secretariaat (gratis!)	Hasselt	NL
21/05/2014	Les 10 questions les plus posées au secrétariat social (gratis!)	Namur	FR
22/05/2014	Plus (Expert Training) (SAM/Level Five)	Charleroi	FR
16/06/2014	Export Word/Excel (SAM/Level Five)	Brussel	NL
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