



# MEMENTO

## OF THE EMPLOYER 06



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# ELIGIBILITY FOR EARLY RETIREMENT SCHEME AS FROM 1 JANUARY 2015

Pursuant to the coalition agreement of October 2014, the conditions for eligibility for the “unemployment with employer supplement scheme” (RCC - régime de chômage avec complément d'entreprise - previously known as early retirement) have been significantly tightened. The stated objective is to extend the effective length of a career to as close to 45 years as possible, thereby delaying any (overly) early exiting of the labour market.

In the January 2015 Guide, we set out the new conditions provided for in the royal decree of 30 December 2014, which apply as from 1 January 2015.

We are now returning to the issue of early retirement given that the majority of unemployment with employer supplement schemes are also governed by Collective Labour Agreements (CLAs) concluded, inter alia, within the National Labour Council.

To give concrete effect to the Group of Ten (the social partners) agreement of 17 December 2014, it was necessary to renew or amend some of these collective agreements, and even adopt new ones. It was with this in mind that CLAs no. 17 tricies-sexies - 111 - 112 - 113 - 114 - 115 - 116 and 117 were concluded within the National Labour Council on 27 April 2015.

The significance of the provisions contained in these inter-professional CLAs which were much anticipated by the labour world justifies, we think, a new updated overview of the age and length of career requirements governing eligibility for an RCC as from 1 January 2015.

01

## AGE AND LENGTH OF CAREER REQUIREMENTS – GENERAL RULES

The royal decree of 30 December 2014 (Belgian Official Gazette of 31 December 2014, 3rd ed.) has considerably tightened the age-related conditions for eligibility for unemployment with employer supplement schemes.

Specifically, as from 1 January 2015, eligibility for an RCC is restricted to redundant workers who are at least **62 years** of age at the time their employment contract ends (CLA no. 17, art. 3(1), as amended by CLA no. 17 triciessexies of 27 April). 2015.

Two transitional measures are, however, provided for at this level (see below).

Workers who satisfy the age requirement must, at the time the employment relationship is terminated, also establish the existence of a specific length of professional career as a salaried employee.

This length of career requirement has also been progressively increased and is as follows as from 1 January 2015.



Year of commencement of early retirement (62 years old)	Length of career requirement for:	
	a man	a woman
From 1 January 2015	40 years	31 years
From 1 January 2016	40 years	32 years
From 1 January 2017	40 years	33 years
From 1 January 2018	40 years	34 years
From 1 January 2019	40 years	35 years
From 1 January 2020	40 years	36 years
From 1 January 2021	40 years	37 years
From 1 January 2022	40 years	38 years
From 1 January 2023	40 years	39 years
From 1 January 2024	40 years	40 years

However, eligibility for an RCC at 60 years of age has been maintained on a transitional basis in two scenarios:

1) **The first scenario** concerns workers who satisfy all the following requirements:

- They are made redundant before 1 January 2015.
- They are 60 years old at the latest on 31 December 2016 and at the end of their employment contract. In this particular scenario, 60 years of age may be reached after 31 December 2016 but must have been reached at the end of their employment contract where the notice period, established pursuant to the law or a CLA, comes to an end after 31 December 2016. Any extensions to the notice period applicable by virtue of the grounds for suspension provided for in articles 38(2) and 38bis of the law of 3 July 1978 are not taken into consideration to determine the said notice period.
- They can establish the requisite length of career indicated above at the end of their employment contract.

2) **The second scenario** concerns workers who simultaneously satisfy all the following requirements:

- They are made redundant during the period of validity of a CLA other than CLA no. 17.
- Such CLA must be concluded and registered before 1 July 2015 and come into force no later than 1 January 2015.
- The said CLA provides for a minimum age of 60 years for eligibility for the RCC.
- They reach at least 60 years of age at the latest by the end of their employment contract and during the period of validity of the aforementioned CLA.
- They can establish the requisite length of career indicated above at the end of their employment contract.

### ! COMMENT

A certain number of sectors have concluded CLAs in this vein, such as, most notably, the textile sector (Joint Committee nos. 120 and 214), the furniture and woodworking industry sector (Joint Committee no. 126), the agricultural and horticultural sector (Joint Committee nos. 144 and 145), the electricians sector (Joint Committee no. 149.01), the hairdressing sector (joint Committee no. 314) and the real estate agent sector. However, it should be noted that these sectors may have imposed additional conditions for the RCC.



02

## EXEMPTIONS TO AGE AND LENGTH OF CAREER REQUIREMENTS

In certain specific situations, eligibility for an “unemployment with employer supplement scheme” (RCC) may be allowed below 62 years of age. This may involve exemptions lowering the age limit to a minimum of 58, 57, 56 or even 55 years of age.

Each of these exemptions must, of course, satisfy specific conditions that we list below.

### 1 EXEMPTION: MINIMUM AGE REQUIREMENT OF 58 YEARS

Based on a sectoral or company-level CLA, or even a collective agreement, eligibility for an RCC may be considered from 58 years of age in the 4 following situations:

- for construction workers - in case of night work - in case of arduous occupations;
- for workers employed in an arduous occupation;
- for less able-bodied workers or those with serious physical problems;
- for workers with a long career.

#### FOR CONSTRUCTION WORKERS - IN CASE OF NIGHT WORK - IN CASE OF ARDUOUS OCCUPATIONS

**Principle** – As from 1 January 2015, eligibility for an RCC is granted to workers aged at least **58 years** at the end of their employment contract who have a **professional career of at least 33 years** as a salaried employee and who can prove:

- having been employed by an employer in the **construction sector** and being in possession of a certificate issued by an occupational health doctor confirming that they are unable to continue their professional activity; or
- having worked for at least **20 years under a night work system** referred to in CLA no. 46 (see shift work including night work); or
- having been employed in an **arduous occupation**.

### ! COMMENT

The age requirement of 56 years that was applicable before 1 January 2015 in the scenarios outlined above is maintained on an interim basis under certain conditions. *See infra*.

In the case of the 33-year career referred to above, it is necessary to be able to prove:

- 5 years employed in an arduous occupation (calculated from date to date) during the 10 calendar years, calculated from date to date, preceding the end of the contract; or
- 7 years employed in an arduous occupation (calculated from date to date) during the 15 calendar years, calculated from date to date, preceding the end of the contract.

“Arduous occupation” is understood to mean:

- Successive shift work, more specifically, working in at least 2 shifts with each shift comprising at least two workers, who do the same work in terms of both object and scope and which follow one after the other over the course of the day without any interruption between the successive shifts and with an overlap of no more than one quarter of their daily tasks, provided that the worker alternates between shifts.
- Work in non-continuous services in which the worker is permanently assigned to day shifts where at least 11 hours separate the start and end time of work with a break of at least 3 hours and a minimum of 7 hours of service. “Permanent” should be understood to mean that the non-continuous service is the worker’s usual working pattern and that he or she is not employed under such an arrangement on an occasional basis.
- Shift work including night work as well as other forms of work including night work (= employment under a working arrangement referred to in CLA no. 46).



Cabin crew employed in air transport who usually work hours comprising service between 8 p.m. and 6 a.m. are treated in the same way as the workers referred to in article 1 of CLA no. 46, with the exclusion of:

- workers whose service is only carried out between 6 a.m. and midnight;
- Workers whose service usually starts no earlier than 5 a.m.

**Obligation to conclude a CLA** – Pursuant to article 3(1)(9) of the royal decree of 3 May 2007, the entitlement to this particular RCC was to have been provided for in an inter-professional CLA concluded within the National Labour Council.

To give effect to this measure, the National Labour Council therefore concluded, on 27 April 2015, **CLA no. 111** for the period 2015-2016. Pursuant to CLA no. 111, **the sectors must also conclude**, for the period 2015-2016, **one or more sectoral CLA(s)** in order to be able to allow eligibility for this specific RCC.

Where such a sectoral CLA is not concluded, the sector concerned may not then use this specific scheme.

**Auxiliary scheme provided for by CLA no. 111** – CLA no. 111 also establishes this specific RCC, on an auxiliary basis, for companies that fall under a joint committee which does not function, or which do not fall under any joint committee.

These employers can, in effect, implement this scheme by means of an agreement, with such agreement taking the form of a company-level CLA, an instrument of agreement drawn up in accordance with article 5 of CLA no. 111 or an amendment of the employment regulations (CLA no. 111, art. 4).

Whatever form the agreement takes, it must be filed with the Clerk's office of the Directorate-General of Collective Labour Relations of the FPS Employment, Labour and Social Dialogue. It should also be specified that the instrument of agreement must be drawn up in accordance with the procedure set down in article 5 of CLA no. 111 and in accordance with the template included in the annex to agreement no. 111.

**No raising of age requirement for eligibility to 60 years (= CLA no. 112)** – Based on article 3(1)(2)(2), provisions had been made to raise the age requirement from 58 to 60 years as from a date to be set by the National Labour Council.

This increase in age will not occur for the time being. Specifically, on 27 April 2015, the National Labour Council concluded **CLA no. 112**, which maintains the age requirement at 58 years for the period from 1 January 2015 to 31 December 2016.

For the period from 1 January 2015 to 31 December 2016, the age requirement set down for eligibility for the specific RCC (see supra) has therefore been maintained at 58 years. The worker must have reached this age at the latest at the end of the contract and during the period of validity of CLA no. 112, i.e. during the period 2015-2016.

Five further clarifications:

- 1) For the period 2015-2016, the sectors may conclude a sectoral CLA pursuant to this agreement.
- 2) CLA no. 112 may be extended or amended after 2016 according to the same procedures and for a further period of 2 years, enabling the minimum age to be progressively increased from 58 years.
- 3) Where CLA no. 112 is extended or amended after 2016, the joint committee will have to conclude, for the workers concerned and for the period of validity of the CLA concluded within the National Labour Council, a sectoral CLA mandated by royal decree which specifically mentions that it is being concluded pursuant to the inter-professional CLA concluded within the National Labour Council.
- 4) In the absence of any extension or amendment of CLA no. 112 after 2016, the age will be increased to 60 years from an as yet undetermined date.
- 5) The fact that the sectors do not conclude a CLA during the 2015-2016 period pursuant to CLA no. 112 does not prevent them from concluding one for the next two-year period pursuant to a CLA concluded within the National Labour Council.

### FOR WORKERS EMPLOYED IN ARDUOUS OCCUPATIONS

**Principle** – a minimum age requirement of **58 years** for eligibility for an RCC is allowed for workers who can prove, at the time their employment contract ends, a **35-year professional career** as a salaried employee working in an arduous occupation. From these 35 years, it is necessary to be able to prove:

- 5 years employed in an arduous occupation (calculated from date to date) during the 10 calendar years, calculated from date to date, preceding the end of the contract; or
- 7 years employed in an arduous occupation (calculated from date to date) during the 15 calendar years, calculated from date to date, preceding the end of the contract.



The notion of "arduous occupation" is identical to that indicated *supra*.

**No raising of age requirement for eligibility to 60 years (= CLA no. 113)** – Based on article 3(3) of the royal decree of 3 May 2007, provisions had been made to increase the age from 58 to 60 years as from a date to be set by the National Labour Council.

This increase in age will not occur for the time being. Specifically, on 27 April 2015, the National Labour Council concluded **CLA no. 113**, which **maintains the age requirement at 58 years for the period from 1 January 2015 to 31 December 2016**.

In order to be eligible for the RCC, workers employed in arduous occupations will have to have reached 58 years of age at the latest at the end of the employment contract and during the period 2015-2016. They must also have been made redundant during the period of validity of CLA no. 113 (i.e. during the period 2015-2016).

Four further clarifications:

- 1) For the period 2015-2016, the sectors are also required to conclude a sectoral CLA pursuant to CLA no. 113 in order to be able to grant this specific RCC.
- 2) CLA no. 113 may be extended or amended after 2016 according to the same procedures and for a further period of 2 years, enabling the minimum age to be progressively increased from 58 years.
- 3) Where CLA no. 113 is extended or amended after 2016, the joint committee will have to conclude, for the workers concerned and for the period of validity of the CLA concluded within the National Labour Council, a sectoral CLA mandated by royal decree which specifically mentions that it is being concluded pursuant to the new inter-professional CLA concluded within the National Labour Council.
- 4) The fact that the sectors do not conclude a CLA pursuant to CLA no. 113 does not prevent them from concluding one for the next two-year period pursuant to a CLA concluded within the National Labour Council.

#### FOR LESS ABLE-BODIED WORKERS OR THOSE WITH SERIOUS PHYSICAL PROBLEMS

**Principles** – Based on **CLA no. 114** of 27 April 2015 concluded within the National Labour Council (with this CLA extending CLA no. 105 of 28 March 2013) eligibility for the RCC may be envisaged, at

the earliest, at **58 years of age** for elderly workers made redundant who can prove **35 years** of a professional career at the end of their employment contract and who:

- have the **status of a less able-bodied worker** recognised by a competent authority (e.g. permanent disability of more than 65% within the context of legislation relating to workplace accidents); or
- have **serious physical problems** caused in whole or in part by their professional activity and which significantly hinder the continued exercise of their occupation.

Workers who were directly exposed to asbestos during their career prior to 1 January 1993 for at least 2 years are treated as such persons.

**Eligibility criteria** – Entitlement to the supplementary allowance is granted to workers who satisfy the following requirements:

- have been made redundant, excluding for serious grounds, in the period from 1 January 2015 to 31 December 2016;
- have reached the age of 58 years during the period from 1 January 2015 to 31 December 2016 and, at the latest, at the end of their employment contract;
- are able to prove a professional career of at least 35 years, at the end of their employment contract;
- can provide proof:
  - of their disability, by submitting a certificate confirming such disability from the competent body; or
  - of their serious physical problem, by submitting a certificate issued by the Workplace Accident Fund or the Occupational Illness Fund.

**Maintenance of entitlement to the RCC** – Provided that, in particular, the age and length of professional career requirements are satisfied, workers will retain their entitlement to a supplementary allowance where:

- the notice period expires after 31 December 2016;
- a worker with serious physical problems and who has submitted an application for official recognition **before** 1 July 2016 to the Workplace Accidents Fund (FAT) only provides proof of a certificate from the FAT after 31 December 2016.



### ! COMMENT

Entitlement to the supplementary allowance will also be granted to workers who have submitted an application for official recognition based on CLA no. 114 and who can prove that they have notified their employer. This provision is aimed at preventing a worker from being made redundant during the official recognition procedure provided for in CLA no. 114.

### FOR WORKERS WITH A LONG CAREER

**Principles** – Pursuant to article 3(7) of the royal decree of 3 May 2007, eligibility for the RCC has been maintained for workers aged **58 years** or more who have a **professional career of at least 40 years**. However, this scheme must be provided for by a CLA concluded within the National Labour Council. To give effect to this measure, the National Labour Council concluded, on 27 April 2015, **CLA no. 115** which applies from 1 January 2015 to 31 December 2016.

**Eligibility criteria** – Entitlement to the supplementary allowance is granted to workers who satisfy the following requirements:

- have been made redundant, excluding for serious grounds, in the period from 1 January 2015 to 31 December 2016;
- have reached the age of 58 years during the period from 1 January 2015 to 31 December 2016 and, at the latest, at the end of their employment contract;
- can provide proof of a professional career of at least 40 years.

### ! N.B.

Entitlement to the supplementary allowance is maintained for workers who satisfy the requirements set down and whose notice period expires after 31 December 2016.

### Temporary exemption from the age requirement –

Based on article 16(5) of the royal decree of 30 December 2014 and article 4 of CLA no. 115, eligibility for the RCC at **56 years of age** and with a 40-year professional career continues to be possible, on a temporary basis; see infra.

**No raising of eligible age planned for 1 January 2017 (= CLA no. 116)** – It had been planned to increase the age from 58 years to 60 years on 1 January 2017,

unless, inter alia, a CLA was concluded within the National Labour Council.

To give effect to this measure, the National Labour Council therefore concluded, on 27 April 2015, **CLA no. 116**. This provides that for the period 2015-2016 eligibility for the RCC may be granted to workers of at least 58 years of age who can provide proof of a professional career of 40 years.

Five further clarifications:

- 1) For the period 2015-2016, the sectors may conclude a sectoral CLA pursuant to CLA no. 116.
- 2) CLA no. 116 may be extended or amended after 2016 according to the same procedures and for a further period of 2 years, enabling the minimum age to be progressively increased from 58 years.
- 3) In the absence of any extension or amendment of the CLA after 2016, the age for eligibility for the RCC after a long career will be increased to 60 years as from 1 January 2017.
- 4) Where CLA no. 116 is extended or amended after 2016 and sets the minimum age to less than 60 years, the joint committee will have to conclude, for the workers concerned and for the period of validity of the CLA concluded within the National Labour Council, a sectoral CLA mandated by royal decree which specifically mentions that it is being concluded pursuant to the new inter-professional CLA concluded within the National Labour Council.
- 5) The fact that the sectors do not conclude a CLA for 2015-2016 pursuant to CLA no. 116 does not prevent them from concluding one for the next two-year period pursuant to a CLA concluded within the National Labour Council.

## 2 EXEMPTION: MINIMUM AGE REQUIREMENT OF 57 YEARS

Based on article 3(4) and 3(5) of the royal decree of 3 May 2007, eligibility for the RCC was granted until 31 December 2014 to:

- workers **57 years of age** after a **professional career of 38 years**, provided that this age limit was provided for in a CLA (or a collective agreement) registered at the latest on **31 May 1986** with the Clerk's office of the Directorate-General of Collective Labour Relations and applicable without interruption since this date;



- workers **57 years of age** after a **professional career of 38 years**, provided that this age limit was provided for in a CLA (or a collective agreement) registered at the latest on **31 May 1987** with the Clerk's office of the Directorate-General of Collective Labour Relations and applicable without interruption since this date.

These CLAs or collective agreements, ceased, in principle, to have effect on 31 December 2014.

However, it was decided that the scheme governing eligibility for the RCC at 57 years of age with a professional career of at least 38 years would remain in effect after 31 December 2014 for workers that simultaneously satisfy all the following requirements:

- they were made redundant before 1 January 2015;
- they reached the age of 57 years at the latest on 31 December 2014 and at the end of their employment contract;
- they can provide proof of a professional career of at least 38 years at the end of their employment contract.

### 3 EXEMPTION: MINIMUM AGE REQUIREMENT OF 56 YEARS

#### FOR WORKERS WHO CAN PROVIDE PROOF OF A PROFESSIONAL CAREER OF 40 YEARS

Based on article 16(5) of the royal decree of 30 December 2014 and article 4 of **CLA no. 115**, eligibility for the RCC at **56 years of age** may be maintained for workers who simultaneously satisfy the following requirements:

- they are made redundant during the period of validity of CLA no. 115 and before 1 January 2016, except for serious grounds;
- they reach the age of 56 years at the latest on 31 December 2015 and at the end of their employment contract;
- they can provide proof of a **professional career of at least 40 years** at the end of their employment contract.

#### ! N.B.

Entitlement to the supplementary allowance is maintained for workers who satisfy the requirements set down and whose notice period expires after 31 December 2015.

#### FOR WORKERS PROVIDING PROOF OF A CAREER OF 33 YEARS

Based on article 16(3) of the royal decree of 30 December 2014 as well as article 10 of CLA no. 111, the age requirement of 56 years as was in force before 1 January 2015 continues to be temporarily applicable to workers who fulfil all the following requirements:

- they were made redundant before 1 January 2015;
- they reached 56 years of age at the latest on 31 December 2014 and at the end of their employment contract;
- they can provide proof of a **professional career of 33 years** at the end of their employment contract;
- at the end of their employment contract, they find themselves in one of the following situations:
  - they have worked for 20 years in a shift work arrangement which included night shifts (CLA no. 46); or
  - have been employed by an employer in the construction sector and possess a certificate issued by an occupational health doctor confirming that they are unable to continue their professional activity.

#### 4 EXEMPTION FOR COMPANIES IN DIFFICULTY OR UNDERGOING RESTRUCTURING: AGE REQUIREMENT OF 55 YEARS

**Principle** – The age limit is set at 55 years from 1 January 2015 and must be provided for in a CLA mandated by royal decree or, if not, by a CLA or collective agreement approved by the Minister for Employment.

For companies recognised as being **in difficulty** and for companies recognised as **undergoing restructuring**, it is planned to progressively increase the age requirement to 60 years in accordance with what is indicated in the table below.



Year of commencement of early retirement	Minimum age requirement
From 1 January 2015	55 years old
From 1 January 2016	56 years old
From 1 January 2017	57 years old
From 1 January 2018	58 years old
From 1 January 2019	59 years old
From 1 January 2020	60 years old

It should be specifically noted that workers who are subject to collective redundancy and who wish to be eligible for an RCC must have reached the required age (55 years) at the time of communication by the employer of the intention to proceed with a collective dismissal.

Furthermore, irrespective of the age of early retirement, workers will be required to provide proof, at the time of termination of the employment relationship, of:

- a professional career of **10 years** as a salaried employee in the sector during the 15 years preceding the end of the contract; or
- a professional career of **20 years** as a salaried employee.

**No raising of age requirement for eligibility on 1 January 2016 (= CLA no. 117)** – Based on article 18(7) of the royal decree of 3 May 2007, provisions had been made to progressively increase the age requirement, and in particular to increase the age from 55 to 56 years as from 1 January 2016.

However, the age requirement will not be increased to 56 years as from 1 January 2016. Specifically,

according to article 18(7)(8) of the royal decree of 3 May 2007, an entitlement to the supplementary allowance may be granted to workers made redundant from a company recognised as being in difficulty or undergoing restructuring at an age lower than 60 years, provided that this age limit is set for the period 2015-2016 in a CLA concluded within the National Labour Council.

To give effect to this measure, the National Labour Council therefore concluded, on 27 April 2015, **CLA no. 117** which is valid for 2 years, i.e. from 1 January 2015 to 31 December 2016.

CLA no. 117 provides that the age from which an RCC may be granted by a company in difficulty or undergoing restructuring during the period from 1 January 2015 to 31 December 2016 is set at **55 years**.

For eligibility for the RCC to be allowed at 55 years of age, the company concerned will be required to conclude a CLA or a collective agreement that grants a supplementary allowance pursuant to CLA no. 117.

This CLA or agreement must also expressly mention that it is concluded pursuant to CLA no. 117.



**5 SUMMARY OF CERTAIN CONDITIONS FOR ELIGIBILITY FOR THE RCC (SITUATION AS AT 1 JANUARY 2015)**

Age	Conditions of application	Length of career to be proven by the worker		
		Year of commencement of early retirement	For a man	For a woman
<b>From 62 years of age</b>	<p>For workers whose redundancy is based either on CLA no. 17 or a CLA or collective agreement that provides for benefits at least equivalent to those in CLA no. 17.</p> <p><b>Attention! Transitional eligibility scheme at 60 year of age for (CLA no. 17 tricessexies):</b></p> <ul style="list-style-type: none"> <li>workers made redundant before 1 January 2015 and 60 years of age at the latest on 31 December 2016 and at the end of their employment contract;</li> <li>workers made redundant based on a CLA concluded and registered before 1 July 2015 and in force as from 1 January 2015.</li> </ul>	From 01.01.2015	40 years	31 years
		From 01.01.2016	40 years	32 years
		From 01.01.2017	40 years	33 years
		From 01.01.2018	40 years	34 years
		From 01.01.2019	40 years	35 years
		From 01.01.2020	40 years	36 years
		From 01.01.2021	40 years	37 years
		From 01.01.2022	40 years	38 years
		From 01.01.2023	40 years	39 years
		From 01.01.2024	40 years	40 years
<b>From 58 years of age</b>	<p>Based on <b>CLA no. 111</b> of 27 April 2015 in force for the period 2015-2016 and subject to a sectoral CLA for workers who:</p> <ul style="list-style-type: none"> <li>have worked for <b>20 years</b> in an arrangement including <b>night work</b> (CLA no. 46);</li> <li>are in the <b>construction sector</b> (Joint Committee no. 124) and are in possession of a medical certificate issued by an occupational health doctor confirming that they are unable to continue a professional activity;</li> <li>have been employed in an <b>arduous occupation</b> (for at least 5 years during the 10 years preceding the end of their employment contract or at least 7 years during the 15 years preceding the end of their employment contract).</li> </ul> <p>An auxiliary scheme is also provided for in CLA no. 111 for workers who do not fall under a Joint Committee or fall under a Joint Committee that does not function.</p> <p><b>Please note!</b> No raising of age requirement for eligibility to 60 years during the period 2015-2016 (see <b>CLA no. 112</b>).</p>	Professional career of <b>33 years</b>		



Age	Conditions of application	Length of career to be proven by the worker
<p><b>From 58 years of age</b></p>	<p><b>For workers employed in arduous occupations</b> (e.g. work in successive shifts, work in non-continuous services, shift work including night work and referred to by CLA no. 46) and on the basis of a sectoral CLA.</p> <p>Over a minimum career of 35 years, the worker must provide proof of:</p> <ul style="list-style-type: none"> <li>• 5 years of employment in an arduous occupation over the course of the last 10 years; or</li> <li>• 7 years of employment in an arduous occupation over the course of the last 15 years.</li> </ul> <p><b>Please note!</b> No raising of age requirement for eligibility to 60 years during the period 2015-2016 (see <b>CLA no. 113</b>), but conclusion in this case of a sectoral CLA.</p>	<p>Professional career of <b>35 years</b></p>
	<p><b>For less able-bodied workers or those with serious physical problems</b> (= "early retirement on medical grounds"), on the basis of CLA no. 114 of 27 April 2015. <b>CLA no. 114</b> is applicable for the period from 1 January 2015 to 31 December 2016.</p>	<p>Professional career of <b>35 years</b></p>
	<p><b>For workers with a long career</b> (58 years old as from 1 January 2015). Based on <b>CLA no. 115</b> of 27 April 2015 and in force for the period 2015-2016.</p> <p><b>Please note!</b> No raising of age requirement for eligibility planned for 1 January 2017 (see <b>CLA no. 116</b>).</p>	<p>Professional career of <b>40 years</b></p>
<p><b>From 57 years of age</b></p>	<p>Based on a CLA (or collective agreement) registered at the latest on 31 May 1986 and applicable without interruption since this date; or</p> <p>based on a CLA (or collective agreement) registered at the latest on 31 May 1987 and applicable without interruption since this date, provided that the workers:</p> <ul style="list-style-type: none"> <li>• were made redundant before 1 January 2015;</li> <li>• reached the age of 57 years at the latest on 31 December 2014 and at the end of their employment contract;</li> <li>• provide proof of a professional career of 38 years.</li> </ul>	<p>Professional career of <b>38 years</b></p>



Age	Conditions of application	Length of career to be proven by the worker
<b>From 56 years of age</b>	Based on CLA no. 115 of 27 April 2015 (art. 4), age limit of 56 years maintained for workers who satisfy all the following requirements: <ul style="list-style-type: none"> <li>• are made redundant before 1 January 2016;</li> <li>• reach 56 years of age at the latest on 31 December 2015 and at the end of their employment contract;</li> <li>• provide proof of a professional career of 40 years.</li> </ul>	Professional career of <b>40 years</b>
	Based on article 16(3) of the royal decree of 30 December 2015 and article 10 of CLA no. 111, for workers who satisfy all the following requirements: <ul style="list-style-type: none"> <li>• were made redundant before 1 January 2015;</li> <li>• reached 56 years of age at the latest by 31 December 2014 and at the end of their employment contract;</li> <li>• provide proof of a professional career of 33 years;</li> <li>• at the end of their employment contract find themselves in one of the following situations:               <ul style="list-style-type: none"> <li>• have worked for at least 20 years in an arrangement including night work (CLA no. 46);</li> <li>• are in the construction sector and are in possession of a certificate confirming that they are unable to continue their professional activity.</li> </ul> </li> </ul>	Professional career of <b>33 years</b>
<b>From 55 years of age</b>	Based on a CLA mandated by royal decree or CLA or collective agreement approved by the Minister for Employment for companies in <b>difficulty</b> or <b>undergoing restructuring</b> . <b>Please note!</b> No raising of age requirement for eligibility to 56 years as from 1 January 2016. Maintaining of age of 55 years during the period 2015-2016 on the basis of <b>CLA no. 117</b> of 27 April 2015.	A professional career of <b>10 years</b> in the sector during the 15 years preceding the end of the contract; or  a professional career of <b>20 years</b> as a salaried employee.

Francis Verbrugge, Senior Legal Counsel



## SOCIAL NEWS

## “END OF CAREER” TIME CREDIT AND GRANTS OF ALLOWANCES

Since 1 January 2015, only workers **aged 60 or over** as at the date when the work-reduction commences have been able to claim allowances under “end of career” time credit (instead of age 55).

By way of an exception to this general rule, however, the age condition continues to be set at 55 for workers with a long career or those engaged in a strenuous occupation or employed by companies that are in difficulties or undergoing restructuring.

Nonetheless, it was made possible under section 6(5), third paragraph, of the RD of 12.12.2001 to gradually raise the age limits as from 1 January 2016 unless a framework CBA (made mandatory by RD) had been signed with a view to keeping the age condition at 55.

Pursuant to this provision, on 27 April 2015, the National Labour Council signed **CBA no. 118**, which, for 2015-2016, sets down the framework for keeping the age limit at 55 for claiming interruption allowances for “end of career” time credit where the workers in question have a career of 35 years or more and for those exercising a strenuous occupation or employed by companies that are in difficulties or undergoing restructuring.

The situation now looks like this:

- For workers with a **career of at least 35 years** and those in a **strenuous occupation**, the age limit for the period 2015-2016 is kept at 55 where they take part-time “end of career” time credit (reducing their work by half or by 1/5) and they

meet the conditions in section 6(5)(2°) and (3°) of the Royal Decree of 12 December 2001. For the purposes of this 55-year age limit, the joint committee must still have signed a sectoral CBA for the validity period of CBA no. 118 (i.e. the period 2015-2016) that is made mandatory by royal decree and explicitly mentioning that it has been signed in application of CBA no. 118. Without a sectoral CBA, these workers will fall under the schedules set out for them in the Royal Decree of 30 December 2014, i.e. age 55 in 2015 and age 56 in 2016. If the sectors do not sign CBAs in application of CBA no. 118, however, this will not prevent them from signing one for the next biannual period in application of the one signed within the NLC.

- Furthermore, as regards workers employed by **companies that are in difficulties or undergoing restructuring**, the age limit for the period 2015-2016 is kept at 55 where they take part-time “end of career” time credit (reducing their work by half or by 1/5) and they meet the conditions in section 6(5)(1°) of the Royal Decree of 12 December 2001 (see above). To be able to apply this 55-year age limit, however, the company must be recognised as being in difficulties or in restructuring and, in those two cases, have signed a company CBA in which it is explicitly stated that it was signed in application of CBA no. 118. Without a company CBA, these workers will fall under the schedules set out for them in the Royal Decree of 30 December 2014, i.e. age 55 in 2015 and age 56 in 2016.

**Francis Verbrugge**, Senior Legal Counsel



## SOCIAL NEWS

## REQUIREMENT TO EMPLOY YOUNG PERSONS UNDER FIRST-JOB AGREEMENTS DROPPED IN JC 124

Provided certain conditions are met, employers have to employ a certain number of young persons aged under 26, unless there is an exception to the requirement.

### OBLIGATION TO HIRE

Employers falling within the private sector and employing 50 staff or more as at 30 June of the previous calendar year are under an obligation to employ young persons aged under 26 to the extent of a certain percentage of their workforce calculated at full-time equivalents: 3% in the retail sector and 1.5% in the non-retail sector. Employers not employing 50 staff as at 30 June of the previous calendar year do not need to fulfil this obligation.

### AVAILABILITY OF A DISPENSATION

The Act on Establishment Joint Committees allows the FPS for Employment, Work and Social Dialogue to grant full dispensations from this

obligation to sectors that so request. Dispensations are granted where the sector devotes at least 0.15% of its total quarterly payroll figure to "groups at risk" and furthermore engages in special measures in terms of worker recruitment.

JC 124 has claimed such a dispensation.

Employers falling under JC 124 for their blue-collar staff are not required to employ young persons aged under 26. The dispensation applies from 1 January 2014 to 31 December 2015.

### ! NOTE

Employers falling under JC 124 for their blue-collar staff are under no requirement at all even if they employ white-collar workers and their staff comprises more white-collar than blue-collar workers.

**Anne Ghysels**, Legal Counsel



## SOCIAL NEWS

## BRUSSELS RECOGNISED AS TOURIST CENTRE: THE END OF THE WEEKLY REST DAY

Tourism and its positive economic effects are crucial for the city of Brussels. Therefore, the businesses that are located in the 'Brussels pentagon' are allowed to be open on Sundays, however, they will have to choose other weekly closing day.

To this end, the minister for the Self-Employed and SMEs has signed a royal decree on 24 April 2015, allowing businesses located in the tourist zone to derogate from the compulsory closing hours (article 6 a and b of the Act of 10 November 2006) and the rule regarding the weekly rest day (article 8 of the Act of 10 November 2006).

The tourist zone is delimited by the following boulevards: Boulevard du 9e de ligne, Boulevard de Nieuport, Boulevard Barthelemy, Boulevard de l'Abattoir (side city centre), Boulevard du Midi, Boulevard de Waterloo, Boulevard du Régent, Boulevard Bischoffsheim, Boulevard du Jardin botanique (side city centre) and Boulevard d'Anvers.

These new rules taking effect on 21 May 2015 (and more specifically on Sunday 24 May) in some respects serve to complement the legal provisions of labour law on the prohibition of Sunday work.

In principle, it is prohibited to employ workers on a Sunday.

Regardless of other derogations provided for in the Labour Act of 16 March 1971, however, workers employed in retail stores and hairdressing

salons located in seaside resorts, climatic health resorts and tourist centres, under article 14, §2 of the above mentioned Act of 16 March 1971 and pursuant to the royal decree of 9 May 9 2007 on the employment on a Sunday in retail stores and hairdressing salons located in seaside resorts, climatic health resorts and tourist centres, (*Moniteur Belge*, 3 July 2007) may be employed on a Sunday:

- from 1 May until 30 September;
- during the Christmas and Easter school holidays organised, subsidized or accredited by the Communities;
- outside the periods above, during maximum thirteen Sundays per calendar year:
  - where there are large numbers of tourists during the weekend, due to the existence of interesting or well-known places of a cultural, historical or religious nature or places of scenic beauty;
  - where shows, exhibitions, museums, trade fairs, industrial and agricultural exhibitions, markets, fairs, parades or sporting events are held.

To obtain the statute of tourist centre, the municipality must comply with all legal requirements and be recognised as such after a recognition procedure initiated by the Municipal Executive with the FPS Employment, Labour and Social Dialogue.

These conditions and the procedure to be observed are laid down in the royal decree of 9 May 2007. We note that the recognition is

&gt;&gt;



granted for an indefinite period, but the FPS Employment may at any time request a municipality to demonstrate that it still fulfils the conditions governing the granting of this recognition.

The part of the territory of the city of Brussels located within the inner beltway (the 'Brussels pentagon' - see above) has been recognised as a tourist centre (royal decree of 2 July 2011, *Moniteur Belge*, 23 July 2011).

### ! NOTE

Mind that the number of Sundays that can be worked has been laid down per employer and not per individual worker. Having staff work all Sundays of the year under a rotation system is therefore illegal (Cass. 10 November 2014, on the website of the FPS Justice ([www.just.fgov.be](http://www.just.fgov.be)) - JURIDAT- - Roll. No. 13.0100.N).

**Brigitte Dendooven**, Legal Counsel

## SOCIAL NEWS

# SALARY STANDARD: A MARGIN FOR NEGOTIATION AS OF 2016

The Act instituting the maximum margin for salary cost development in 2015-2016 was published in Belgium's official gazette on 30 April 2015. The act definitively sets down the salary standard for those two years.

Given that the Inter-Professional Accord was backed by the "Group of Eight" (rather than the Group of Ten), it fell to the government to set the salary standard.

After two years of prohibitions against employers granting salary increases, a new margin for salary negotiations will come into effect as of 1 January 2016.

In practical terms, this means that the salary freeze will stay in effect in 2015 but that employers and/or sectors can grant the following increases in 2016:

- a maximum raise of 0.5% of the gross payroll figure (total employer cost including all expenses);
- this maximum margin can be further increased by 0.3% of the net salary margin, without additional cost to the employer.

Employers that fail to adhere to the salary standard risk a fine of EUR 250 to EUR 5,000.

Alongside that, scale increases linked to seniority also continue to be guaranteed. However, workers cannot for the moment receive an increase linked to the index by reason of the index jump provided for by the Employment Promotion Act of 23 April 2015.

This measure came into force on 30 April 2015 (the date it was published in the official gazette).

**Leen Lafourt**, Legal Counsel



## WAGE ADJUSTMENTS

## WAGE ADJUSTMENTS ON 1 JUNE 2015

<b>Index of May 2015</b>	▶ (reference year 2013) 100.86 ▶ (reference year 2004) 123.45
<b>The 'Health' index</b>	▶ (reference year 2013) 101.16 ▶ (reference year 2004) 122.17
<b>Quarterly mean</b>	▶ 100,66

### Wage adjustments on 1 june 2015

<b>102.03</b>	<p><b>Joint subcommittee for the porphyry quarries in the provinces of Walloon Brabant and Hainaut and the quartzite quarries in the province of Walloon Brabant</b> Allocation of ecocheques (aka green cheques) worth:</p> <ul style="list-style-type: none"> <li>• € 250 if a full-timer or at least 80% part time</li> <li>• € 200 if between 60% and 80% part time</li> <li>• € 150 if between 50% and 60% part time</li> <li>• € 100 if less than 50% part time</li> </ul> <p>Reference period from 1 June 2014 thru' 31 May 2015.</p>
<b>112.00</b>	<p><b>Joint Committee for garages:</b> Allocation of ecocheques worth € 125 to all full-time manual workers. Reference period from 01.12.2014 thru' 31.05.2015. Part-timers on a pro rata basis. Disbursement no later than 15.06.2015. A company Collective Labour Agreement (CLA) may concretize the purchasing power differently.</p>
<b>140.01</b>	<p><b>Coaches and buses</b> <b>Only for workshop staff:</b> allocation of ecocheques worth € 125 to all full-time manual workers. Reference period from 01.12.2014 thru' 31.05.2015. Part-timers on a pro rata basis. Disbursement on 15 June 2015.</p> <p><b>Special regular services</b> <b>Only for driving crews with at least 5 years' service in January 2015:</b> allocation of ecocheques worth € 125. Reference period from 01.01.2014 thru' 31.12.2014. Part-timers on a pro rata basis. Specific calculation methods.</p> <p><b>Coaches</b> <b>Only for drivers with at least 5 years' service on 1 January 2015:</b> allocation of ecocheques worth € 125. Reference period from 01.01.2014 thru' 31.12.2014. Part-timers on a pro rata basis. Specific calculation methods.</p>
<b>142.01</b>	<p><b>Joint subcommittee for the recycling/reclamation of metals:</b> Allocation of ecocheques worth € 125 to all full-time manual workers. Reference period from 01.12.2014 thru' 31.05.2015. Part-timers on a <i>pro rata</i> basis. Disbursement no later than 15 June 2015. A company CLA may concretize differently.</p>
<b>149.02</b>	<p><b>Joint subcommittee for bodywork:</b> Allocation of ecocheques worth € 125 to all full-time manual workers. Reference period from 01.12.2014 thru' 31.05.2015. Part-timers on a <i>pro rata</i> basis. Disbursement no later than 15 June 2015. Any company agreement that has been concluded before 1 October 2011 may concretize the purchasing power differently. Companies which already have a derogation from the sectoral system of ecocheques may renew this derogation.</p>



## Wage adjustments on 1 June 2015

<b>149.04</b>	<p><b>Joint subcommittee for the metal-industry:</b> Allocation of ecocheques worth € 125 to all full-time manual workers. Reference period from 01.12.2014 thru' 31.05.2015. Part-timers on a <i>pro rata</i> basis. Disbursement no later than 15 June 2015. Any company agreement that has been concluded may concretize the purchasing power differently.</p>
<b>200.00</b>	<p><b>Supplementary National Joint Committee for Employees:</b> Allocation of ecocheques for:</p> <ul style="list-style-type: none"> <li>• € 250 if a full-timer or at least 80% part time</li> <li>• € 200 if between 60% and 80% part time</li> <li>• € 150 if between 50% and 60% part time</li> <li>• € 100 if less than part time</li> </ul> <p>Reference period from 1 June 2014 thru' 31 May 2015. Not applicable if converted before 31 October 2014 (for new companies, 31 May 2015) into an equivalent benefit.</p>
<b>202.00</b>	<p><b>Joint Committee for employees in food retail:</b> An annual bonus of € 5 per fully worked or assimilated month. Reference period from June 2014 thru' May 2015. Part-timers on a <i>pro rata</i> basis. Disbursement together with the salary of June 2015. Not applicable if an equivalent benefit is specified in a company CLA concluded before 30 November 2005.</p> <p><b>Not for students:</b> allocation of ecocheques worth € 250 to all full-time, white-collar workers. Reference period from 01.06.2014 thru' 31.05.2015. Part-timers on a <i>pro rata</i> basis. A company CLA, concluded prior to 30 September 2014, may concretize the purchasing power differently.</p>
<b>311.00</b>	<p><b>Joint Committee for large retail outlets:</b> An annual bonus of € 5 per fully worked or assimilated month. Reference period from June 2014 thru' May 2015. Part-timers on a <i>pro rata</i> basis. Not applicable if an equivalent benefit is specified in a company CLA concluded before 30 November 2005.</p> <p><b>Not for students:</b> allocation of ecocheques worth € 250 to all full-time, white-collar workers. Reference period from 01.06.2014 thru' 31.05.2015. Part-timers on a <i>pro rata</i> basis. A company CLA, concluded prior to 30 September 2014, may concretize the purchasing power differently.</p>
<b>312.00</b>	<p><b>Joint Committee for grocery- and department stores:</b> An annual bonus of € 5 per fully worked or assimilated month. Reference period from June 2014 thru' May 2015. Part-timers on a <i>pro rata</i> basis. Not applicable if an equivalent benefit is specified in a company CLA concluded before 28 February 2006.</p> <p><b>Not for students:</b> allocation of ecocheques worth € 250 to all full-time, white-collar workers. Reference period from 01.06.2014 thru' 31.05.2015. Part-timers on a <i>pro rata</i> basis. A company CLA, concluded prior to 30 September 2014, may concretize the purchasing power differently.</p>
<b>321.00</b>	<p><b>Joint Committee for wholesale redistributors of medicinal products:</b> <b>Not for students:</b> allocation of ecocheques worth € 250 to all full-time, white-collar workers. Reference period from 01.06.2014 thru' 31.05.2015. Part-timers on a <i>pro rata</i> basis. A company CLA, concluded prior to 30 October 2009, may concretize the purchasing power differently.</p>



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Patrick Desmyter, Technical Expert