MEMENTO

OF THE EMPLOYER 07

TOPICS

NEWS

PARTENA PROFESSIONAL

PARTIAL RESUMPTION OF WORK

Following a period of full work disability and even if they are not fully recuperated, workers can ask to temporarily resume work on a part-time basis.

This Guidance sets out the conditions that govern this gradual resumption of work and its effects, according to whether partial resumption is authorised by the patient's doctor or the health fund's consultant physician.

01 PRIOR AGREEMENT BY THE EMPLOYER TO PARTIAL RESUMPTION

After a period of full disability, workers may, for a temporary period, have only a reduced ability to work but nevertheless be permitted, on medical advice (from their own doctor or the health fund's consultant physician – see below), to resume partial work or carry out other, lighter tasks than those covered by their initial contract. This is called **partial performance of contracted work**.

In principle – Partial resumption of work nevertheless has to be **agreed to** by the employer, since, overall, the courts (Cassation, 5 January 1981, J.T.T. 1981, 184; Cassation, 13 February 1989, J.T.T. 1989, 435) take the view that employers do not have a legal duty to re-employ a worker who, following a period of work disability, has not recuperated to full working capacity, i.e. is not yet fully able to resume the contractually agreed work (position or duties).

Gradual resumption of work can therefore, in principle, be refused until the worker has fully recuperated and, in that case, contract performance will remain suspended until such time as the worker is able to resume their normal tasks.

If it is refused – If the employer refuses to allow the worker to resume work part time or to do work limited to light(er) tasks (i.e. more compatible with the worker's state of health), it has to advise the worker of its decision in writing.

In that situation, the employer continues to pay any balance of guaranteed salary (up to the 30th day of disability), after which (i.e. as from the 31st day of disability), the worker can claim work disability benefit from their insurer (the health fund).

If it is agreed to – On the other hand, if the employer agrees to partial resumption of work, employer and worker will sign a **written rider** to the employment contract setting out the new terms by which the work is to be done, i.e. the new employment framework and the new daily work schedule, the type of work to be done, the position occupied, pay in relation to the reduced work done, etc. This rider will have to be contracted for a fixed term.

That means that, on the fixed expiry date and subject to possible renewal of the part-time resumption, it will be for the worker to either resume work under the terms initially set down in their contract or to again declare themselves temporarily incapacitated for work if they do not yet feel fit enough to resume normal work duties.

That said, if the employer agrees to part-time resumption of work after a period of full work disability (at least one day), questions arise as to the effects such resumption has on the employee since they differ depending on whether the partial or gradual resumption is authorised by the health fund's consulting physician or **only** by the doctor treating the worker and/or the works adviser for medical health and safety!

02 PARTIAL RESUMPTION AUTHORISED ONLY BY THE DOCTOR TREATING THE WORKER

If a worker is still recognised as work disabled under the AMI rules (= 66% disabled or more) and resumes work part time (and/or under other terms) based **only** on the **authorisation** (opinion) of **the doctor treating them** and/or the works adviser for medical health and safety (and, therefore, without any authorisation from the health fund's consulting physician), they will be deemed to have terminated their work disability status.

The consequences of this single-source authorisation and the resumption of work duties are particularly significant and can be summarised as follows.

1) In terms of the rules on compulsory health care and benefits (Act of 14 July 1994), a change in work schedule decided by joint agreement of the parties is regarded as constituting a fundamental amendment to the employment contract and has the effect of interrupting the period of disability: the parties are deemed to have jointly agreed to switch the contract for a part-time contract, and this will particularly entail having to comply with all the statutory provisions (due notice, especially) relative to that type of contract!
2) The FPS Employment, Labour and Social Dialogue cites a Court of Cassation ruling (Cassation, 23 March 1981, J.T.T. 1982, 122) that, for there to be full suspension of contractual performance, there has to be full suspension of that performance and takes the view that, during the period of partial resumption, the employer is no longer bound to pay any guaranteed salary for the remainder of the period (of 30 days) still to run.
3) The health fund will not pay any further work disability benefit on top of the wage paid by the employer as from the date work is resumed. In other words, the health fund will stop all benefits during the period of reduced working!
4) Disability benefits unduly paid for days when the worker actually worked without authorisation from the health fund's consulting physician (see below) have in principle to be paid back.
5) In the event of a new disability occurring after partial resumption, the employer will have to pay guaranteed salary, this time based on the pay agreed for the part-time working, since it is considered that the parties are then under a new employment contract.
Moreover, at the end of the period of guaranteed salary due by the employer, the insurer (or health fund) will also calculate and pay benefits based on the wage paid for this part-time work.

03

PARTIAL RESUMPTION AUTHORISED BY THE HEALTH FUND'S CONSULTING PHYSICIAN

1. PRINCIPLE

After a period of full disability (lasting a month or more; see note below) and to encourage the return to working life of work-disabled employees, they can, under certain conditions, be authorised by the health fund's consulting physician to temporarily resume work duties part time and/or under conditions more suited to their state of heath. This can even be done during the period of guaranteed salary paid by the employer.

During this resumption period, the worker continues to be entitled to disability benefits from the health fund and, within certain limits, these can be aggregated with the wage due for the work actually done.

> **NOTE**
>
> Workers cannot receive benefit from their health fund unless they are **disabled for at least one day** in terms of the AMI legislation. As a result, workers who, on the advice of the doctor treating them, switch immediately from full-time employment to part-time work (without there being one full day of disability) cannot claim health fund benefits during that period. If, after the period of work reduction, they were to become fully disabled, health fund benefits would be due, but they would be based on the wage paid for the day preceding the start of the disability, i.e. the wage paid for the part-time working.

2. NECESSARY CONDITIONS

However, partial resumption of work has to comply with strict conditions.

A request for authorisation of part-time resumption has to be sent by the worker to the consulting physician of the health fund they are signed up to. The request is made on a form called "Request for authorisation to work during a period of work disability" and has to be signed off as "**agreed**" by the employer. There is a special procedure for this (see below).

The resumption of work has to be authorised by the health fund's consulting physician (see below regarding the procedure). If the authorisation is granted, it will mean that:

- (i) the worker keeps their reduced ability status for medical purposes (physical or mental) at a figure of 50% or more (and no longer 66%);
- (ii) the resumption of work is compatible, reconcilable with the worker's state of health, according to the demands of the position they occupy and their abilities from a medical viewpoint.

In the authorisation, apart from the period it covers, the consulting physician will therefore state the nature and volume of, and the conditions for carrying out, the authorised work.

3. PROCEDURE FOR REQUESTING AUTHORISATION

Workers wishing to temporarily resume part-time work after a period of full disability must, **no later than the working day immediately preceding the resumption of work**:

- notify the resumption of work to their health fund;
- submit a request for authorisation to the health fund's consulting physician

It can be seen that work can be partially resumed **before** the health fund's consulting physician has given their authorisation (previously, authorisation had to be given before resuming work but, now, work can be resumed pending the physician's written approval).

The notification of resumption and the request for authorisation have to be simultaneous, using the same standard form (a single form, available from

health funds and called a "Request for authorisation to work during a period of work disability").

The consulting physician has to issue their **decision** within **30 working days** of the first day of work resumption, and may do so after an examination of the worker.

The form with the consulting physician's decision has then to be sent to the worker within seven calendar days of the decision (though, if a medical examination has been done, the decision can be put back until the examination is complete). Regardless of how it is issued, the decision is effective as of the day after it is issued or sent to the worker.

4. EFFECTS OF THE CONSULTING PHYSICIAN'S DECISION

The effects of the consulting physician's decision on whether or not to authorise partial resumption of work differ depending whether it is positive or negative.

A. POSITIVE DECISION

If the consulting physician agrees to partial resumption, the worker may, subject to any limits imposed in the medical decision, continue work (part time and/or under other conditions) and still receive disability benefit (paid by the health fund), which will be aggregated with their occupational earnings (see below for the limits on this aggregation).

Additionally, the worker can keep the disability benefit received during the period of work resumption up to the effective date of the consulting physician's decision (where partial resumption starts before the consulting physician has notified their decision).

B. NEGATIVE DECISION

On the other hand, the worker's request for authorisation can be met with a negative decision from the consulting physician. There are **two possible scenarios**:

- the physician thinks that partial resumption is **incompatible** with the current ailment or is premature given the worker's state of health. In that case, the worker has to immediately terminate their resumption of work (if it has started) and will again receive disability benefit for full disability. In addition, they can keep benefits received during any work resumption period that has elapsed (i.e. benefit received up to the effective date of the consulting physician's decision), provided the resumption was notified and the request for authorisation submitted in time (see above);
- the consulting physician decides to terminate the work disability, because they consider that the worker is **no longer 50% medically disabled**. In that case, the worker will no longer qualify as work disabled and, therefore, will no longer receive benefit from their insurer. They may nonetheless keep benefit received during any resumption of work, again, provided the resumption was notified and the request for authorisation was submitted in time (see below).

5. PENALTIES FOR LATE NOTIFICATIONS

In principle, there are penalties for workers that fail to notify resumption of work or submit a request for authorisation **in time**. **Two situations** can arise in this respect.

- if the form is notified/submitted late but within **14 calendar days** of the resumption of work, the **benefit is reduced by 10%** for the period up to the date of notification/submission to the health fund. Benefit will be granted as normal (i.e. no reduction) as from the first working day following notification or submission of the form;
- if the form is notified/submitted late and **more than 14 calendar days** after the resumption of work, the worker will undergo a medical examination to check whether they qualify for work disability status at that time. They also have to **pay back disability benefit** received for the period during which they worked without authorisation up until the effective date of the consulting physician's decision.

NOTE

The period for which a benefit repayment is claimed is nonetheless equated to days on which benefit was received for the purposes of calculating social security benefits.

04

AGGREGATING HEALTH FUND BENEFITS AND EARNED INCOME

Principle – Where a worker is authorised to resume work part time or under conditions better suited to their state of health during a period of full disability, the insurer will pay work disability benefit that, within certain limits, can be aggregated with wages earned for the authorised work that is done.

Amount of benefit – The benefit payable by the health fund in a case of partial resumption of work authorised by the consulting physician corresponds to the difference between:

- the daily amount of work disability benefit granted in the absence of aggregation (see point (a), below) and
- the amount of earned income assessed per working day (see point (b), below).

If there is no aggregation with earned income, the amount of benefit paid to a worker with full disability is 60% of the gross pay that is foregone (though this is capped; see below).

To determine the daily wage foregone by a worker employed on a schedule of six days a week and receiving a fixed monthly wage, their pay is divided by 26 (or 21.66 for a five-days-a-week schedule).

The gross wage foregone is nonetheless capped at **133.25 euros** a day for six-days-a-week schedules (159.90 euros a day for five days a week) (these are the figures applicable as of 1 April 2015).

The **maximum daily figure** for work disability benefit is therefore 60% of 133.25 euros, or **79.95 euros** on a six-day schedule (or 60% of 159.90 euros, or 95.94 euros for five days a week).

As regards the gross earned income figure, it has to be said upfront that "earned income" means all income that the worker can procure by dint of the part-time work that is done. It therefore includes not only all wages but also benefits subject to social security and personal, individual use of a vehicle provided by the employer.

However, bonuses, profit shares, ex gratia payments and other, similar benefits do not count as "earned income" for the purposes of calculating the benefit due by the health fund.

The gross earned income figure thus determined is reduced by social security contributions (personal to the worker).

It should nevertheless be pointed out that the amount of earned income, expressed in working days, will only be taken into consideration according to a percentage laid down per income slice: see the following table.

NOTE

No benefit is granted for days covered by holiday pay. However, qualifying disabled persons (i.e. workers recognised as work disabled for more than one year) can claim benefit for holidays.

Income slice	Percentage
First slice of 15.6068 euros	0%
Second slice of 9.3641 euros (from 15.6068 euros to 24.9709 euros)	20%
Third slice of 9.3641 euros (from 24.9709 euros to 34.3350 euros)	50%
Fourth slice, greater than 34.3350 euros	75%

EXAMPLE

A worker is temporarily fully disabled and receives daily disability benefit (paid by the health fund) of **62.00 euros**. They are authorised to resume work part time, for which they receive gross monthly pay of 1,400 euros or, after deduction of personal social security contributions (13.07%), a figure of 1,217.02 euros.

The average daily wage under the partial resumption is therefore fixed at 46.81 euros (1,217.0200/26). The various slices of this figure of 46.81 euros are taken into consideration as follows:

- for the first slice of 15.6068 euros: nil
- for the second slice: 9.3641 x 20% = [46.81 euros – 15.6068 euros = 31.2017 euros (max. 9.3641 euros)] = 1.8728 euros
- for the third slice: 9.3641 x 50% = [31.2017 euros – 9.3641 euros = 21.8376 euros (max. 9.3641 euros)] = 4.6821 euros
- for the fourth slice over 34.3350 euros: 46.81 euros – 34.3350 euros, or 12.4735 x 75% = 9.3551 euros

The total daily wage to be taken into consideration is fixed at 15.91 euros (1.8728 euros + 4.6821 euros + 9.3551 euros).

The daily disability benefit figure that the worker can aggregate with the wage paid for their part-time employment is therefore fixed at **46.09 euros**, (62 euros – 15.91 euros), from which the health fund will deduct a withholding of 11% during the first year of work disability.

05 FULL DISABILITY OCCURRING AFTER PARTIAL RESUMPTION

Two situations need to be looked at in this regard.

If a worker relapses into full disability after a **partial resumption** of work **authorised by the consulting physician**, the health fund will immediately pay them benefit unless the new full disability occurs within 30 days of the start of the first one, in which case the employer has to pay the balance of guaranteed salary.

Under the compulsory health care and benefit insurance scheme, the partial resumption of work authorised by the consulting physician is deemed not to interrupt the period of disability; irrespective of how long it lasts, the resumption period is regarded as a continuation of the first period of full disability.

After any period of guaranteed salary paid by the employer, the health fund benefits will be based on the wage paid for the work done prior to the start of the disability.

On the other hand, **if the worker partially resumes work without the consulting physician's authorisation**, there is a deemed interruption of the disability period and amendment of the contract to make it part time.

If the worker again becomes fully disabled after the partial resumption, the employer again has to pay the guaranteed salary, then based on the contracted wage for the part-time working, since the parties are deemed to have made a new employment contract.

After that guaranteed salary period, the health fund will pay benefit to the worker but the amount will also be based on the wage paid for the part-time work.

06

THE EFFECTS OF PARTIAL RESUMPTION OF WORK

Below, we look at the impact that partial resumption of work can have on three areas of employment law.

1. PART-TIME RESUMPTION OF WORK AND ANNUAL HOLIDAYS

A. THE DECEMBER CALCULATION

Each December, employers must prepare a "December calculation" for each employee that reduced their working time over the past calendar year, which therefore includes employees who, after a period of full disability, resume work part time.

This December calculation is intended to guarantee the vested holiday rights of workers that reduce their working time. In other words, it is a (financial) calculation of the rights attaching to holidays not taken, based on the pay and work done in the holiday year, which will include calculation of the single and double holiday pay to which the worker is entitled.

B. GELIJKSTELLING VAN DE DAGEN ARBEIDSONGESCHIKTHEID

The first 12 months of temporary full disability are treated as "days worked" for determining rights to annual holidays (as regards both the length of the holidays and for calculating single holiday pay).

Where there is partial resumption of work, the question is whether that treatment continues.

Here, we look separately as the situations of white-collar and blue-collar employees.

- **For white-collar workers** and according to the current rules, only **full days of disability** for work (and up to a maximum of 12 months) are treated as actual work for the purposes of holiday entitlement and holiday pay.

  Elt therefore has to be examined how the partial resumption of work is organised on a weekly basis, whether as resumption organised as full days of work (and non-work) or gradual resumption in the form of half-days of work and half-days not working.

  If work is resumed on the basis of full days of work (e.g. weeks 1 and 4: two full days of work; weeks 2 and 3: 3 full days of work), employees can claim full holidays in the next year, albeit that treatment only counts for the first 12 months of disability.

  However, if partial resumption is envisaged in the form of half-days of work and half-days not working (e.g. working four half-days each week), the next year's holiday entitlement will drop because only half-days actually worked will count towards calculating the holidays in the next year. In the above example, only a 40% holiday entitlement would then be built up.

- **For blue-collar workers** the same rules apply as to white-collar workers, but the National Annual Holidays Office allows greater flexibility and will generally count half-days of work disability.

  In other words, the NAHO converts half-days of no work into full days and treats those as actual work for the purposes of calculating the next year's annual holiday entitlement.

C. EUROPEAN HOLIDAYS

Finally, it should not be forgotten that long-term disabled workers (meaning disability days not treated as actual work days, i.e. after the first 12 months of disability) cannot claim a full annual holiday entitlement.

However, under certain conditions, they can claim supplementary (or European) holidays in the event of a (partial) resumption of work.

2. PARTIAL RESUMPTION OF WORK AND BANK HOLIDAYS

During the period of partial resumption of work, workers still qualify as unavailable for work within the meaning of the benefit insurance scheme.

Despite this "status", employers have to have to bear the cost of paying wages for bank holidays that coincide with a day that the worker would normally have worked under their partial resumption.

EXAMPLE

If, within the context of a gradual resumption of work, it is agreed that the worker works on Mondays and Tuesdays, the employer has to pay any bank holiday that falls on a Monday or Tuesday.

However, if the bank holiday falls on a day when the worker would not have worked in any case, that bank holiday is paid by the benefit insurance scheme.

The above principles also apply where partial resumption takes the form of half-days of work.

Where a bank holiday falls on a day that is partially worked, the pay for that bank holiday is borne to the extent of a half-day by the employer, and the other half-day is covered by the benefit insurance to the extent of a certain percentage fixed according to slices of income (see above).

3. PARTIAL RESUMPTION OF WORK AND TERMINATION OF CONTRACT

Special factors have to be borne in mind where the employer wants to dismiss a worker who has partially resumed work.

There are two situations depending on whether the notice period is worked or compensation is paid in lieu of notice.

A. WORKING THE NOTICE PERIOD

For workers starting employment with an employer **on or after 1 January 2014**, their notice period is now based solely on their seniority with the employer, and so the resumption of work plays no part in setting the notice period.

We would also point out that partial resumption of work has no impact on the running of the notice period, since the Court of Cassation (23 March 1981, J.T.T.1982, 121) has ruled that notice is not suspended where a worker afflicted with partial disability resumes work part time (in the form of half-days spread over each of the days of the week).

B. COMPENSATION IN LIEU OF NOTICE

If compensation is paid in lieu of notice upon termination of the employment contract, the Constitutional Court's ruling (no. 89/2009 of 28 May 2009) will apply, saying that, where partial resumption of work **was authorised by the health fund's consulting physician**, the worker is entitled to severance based on the pay they would have been entitled to had they not been work disabled.

That said, the Constitutional Court also takes the view that, where the worker partially resumes work **voluntarily without the agreement of the health fund's consulting physician**, severance is based on the current wage that the worker is entitled to for the **reduced work** done (case 152/2014 of 16 October 2014).

Francis Verbrugge, Senior Legal Counsel

SOCIAL NEWS

ELECTRONIC LUNCHEON VOUCHERS: EXPANSION OF THE SYSTEM

Since 1 January 2011, luncheon vouchers can be issued on paper or in electronic form. From 1 January 2016, the electronic luncheon vouchers system will be entirely and permanently expanded.

CONDITIONS FOR EXEMPTION: REMINDER

The electronic luncheon vouchers granted to workers are not considered as earnings subject to the calculation of social security contributions if certain conditions are met simultaneously. The conditions may be summarized as follows from 1 January 2016:

- luncheon vouchers must be granted:
  - either under a sectoral collective bargaining agreement or by a workplace collective bargaining agreement,
  - or, in the absence of a union delegation or as regards a category of personnel which is not usually covered by such type of agreements, under an individual agreement;
- the number of luncheon vouchers granted must (in principle) be equal to the number of days actually worked by the worker;
- luncheon vouchers are issued in the worker's name;
- electronic luncheon vouchers have a validity period of 12 months from the time the luncheon vouchers are transferred to the luncheon voucher account;
- the employer's contribution to the amount of the luncheon voucher may not exceed € 5.91 per luncheon voucher; concerning the increase to the maximum contribution allowed to the employer from 1 January 2016, please read the Infoflash of 24 June 2015;
- the worker's contribution may not be less than € 1.09;
- the number of electronic luncheon vouchers and their gross amount less the worker's personal contribution must be indicated on the pay slip;
- the worker must be able to check the balance and the validity of the luncheon vouchers not yet used before using the electronic luncheon vouchers;
- electronic luncheon vouchers must be provided by an authorized publisher;
- using electronic luncheon vouchers may not (in principle) entail costs for the worker.

Workers shall not be taxed on the luncheon vouchers subject to compliance with similar conditions.

NOTE

Due to the expansion of the electronic luncheon vouchers system, the principle of reversibility (= free choice between paper format luncheon vouchers and electronic luncheon vouchers) will be abolished from 1 January 2016.

IN PRACTICE

The company currently provides paper format luncheon vouchers

A transition phase has been planned in order to enable the expanded electronic system to be implemented gradually:

- the last paper format luncheon vouchers issued to workers must relate to work performed in September 2015 ;
- paper format luncheon vouchers issued in 2015 will be valid only until 31 December 2015.

Upon the transition to the electronic luncheon voucher system, and for the sake of clarity and legal certainty, the employer must ensure that a new workplace collective bargaining agreement or a new individual agreement are drawn up, and that (where appropriate) the work rules are amended, subject to compliance with ad hoc conditions/procedures.

The company currently provides electronic luncheon vouchers (with possibility of reversibility)

Also for the sake of clarity and legal certainty, it is recommended that the employer delete, subject to compliance with ad hoc conditions/procedures, the provisions (contained, if any, in a workplace collective bargaining agreement or in the work rules) relating to the terms of reversibility of choice and the procedures and time limits for changing the method of payment of the luncheon vouchers.

Catherine Mairy, Legal Counsel

SOCIAL NEWS

EASIER ACCESS TO EMPLOYMENT FOR CROATIAN NATIONALS AND LONG-TERM RESIDENTS

Up until 30 June 2015, employers required an employment authorization in order to employ Croatian nationals. This requirement is now becoming a thing of the past. The rules for the employment of nationals with the status of long-term residents of countries outside the European Union were also modified so that these nationals can more easily access the Belgian labour market.

EMPLOYMENT OF CROATIAN NATIONALS

Principle – The European Union applies the principle of free movement of workers for nationals of Member States. This means that nationals of a Member State (and, under certain conditions, some of their relatives by blood or by marriage) are exempt from the requirement to obtain a work permit and their employers are exempt from obtaining an employment authorization in order to gain access to the Belgian labour market.

The Member States have the possibility of fully or partially limiting the free movement of workers from New Member States during a transitional phase, in order to protect their own labour markets.

End of the transitional period – Croatia joined the European Union on 1 July 2013. For a period of two years, stringent measures applied to Croatian nationals wishing to access the Belgian labour market. Both the Flemish Region and the Walloon Region decided to stop applying these stringent measures. From 1 July 2015, employers no longer require an employment authorization (and workers no longer require a 'B' work permit) to employ a Croatian national.

LONG-TERM RESIDENTS

The status of long-term resident national of countries outside the European Union is granted, under certain conditions, to nationals of countries outside the European Union who have lawfully and continuously resided in another EU Member State for a period of five years. These nationals must have a specific residence document issued by the relevant Member State. Employment of such nationals in Belgium is subject, in principle, to the obligation to obtain an employment authorization and a 'B' work permit.
Until 30 June 2015, these national were allowed to work in Belgium under the following conditions:

- The first 12 months with a 'B' work permit without labour market research in a bottleneck occupation;
- After 12 months of employment, a new work permit could be granted for any occupation, without labour market research.

Due to the end of the transitional period for Croatian nationals, the rules on work permits for long-term residents from countries outside the European Union were also modified.

From 1 July 2015, the following rules will apply for nationals of countries outside the European Union working in Belgium:

- During the first 12 months, they remain subject to the obligation to obtain a 'B' work permit without labour market research for employment in a bottleneck occupation;
- After 12 months of uninterrupted employment in one or more bottleneck occupations, an exemption from obtaining an employment authorization/work permit is granted. This exemption applies to any job. For the purpose of determining whether employment was uninterrupted, the following shall be considered equivalent to work periods:

  periods of total incapacity for work due to an occupational illness, a work accident or an accident occurring on the way to or from work, which occurred at a time when the person in question was regularly employed by an employer based in Belgium.

For completeness, we remind you that only the Flemish and Walloon Regions have amended the legal provision relating to this matter at the current time. The decision of the Region of Brussels-Capital has not yet been published.

Peggy Criel, Legal Counsel

SOCIAL NEWS

INTRODUCTION OF THE INCREASED WORKING TAX BONUS RELATING TO THE PAYE WITHHOLDING LIABILITY

Following the publication of a Royal Decree in the Belgian Official Gazette of 28 August, the increased working 'tax' bonus will now be included in the calculation of the PAYE withholding liability on wages paid or granted from 1 August 2015.

As a reminder, the Programme Act of 10 August 2015 introduced an increase of the working 'tax' bonus as regards personal income tax from 1 August 2015.

Publication of a Royal Decree was required in order to apply the increase relating to the PAYE withholding liability. The Royal Decree has since been published.

As a result, the working 'tax' bonus, which is a reduction of the PAYE withholding liability which corresponds to a percentage of the 'social' work bonus, has been increased from 14.40 % to 17.81 % for wages paid or granted from 1 August 2015.

Peggy Criel, Legal Counsel

SOCIAL NEWS

EMPLOYMENT BONUS: CHANGES AS FROM 1 AUGUST 2015

The 'employment bonus' is a reduction of personal social security contributions paid by the worker. This reduction applies to workers with low wages and enables them to benefit from higher net wages.

Up to 31 July 2015, the amount of the reduction is calculated on the basis of the following formula:

Gross reference wage at 100%	Amount of the reduction (for a full-time worker with full employment)	
	Manual worker	Non-manual worker
≤ € 1.501,82	€ 198,69	€ 183,97
From € 1,501.83 to € 2,385.41	€ 198.69 - (0.2249 x (wages of the manual worker at 100 %) - € 1,501.82)]	€ 183.97 - (0.2082 x (wages of the non-manual worker at 100 %) - € 1,501.82)]
> € 2.385,41	€ 0	€ 0

As from 1 August 2015, the reduction will be calculated as follows:

Gross reference wage at 100%	Amount of the reduction (for a full-time worker with full employment)	
	Manual worker	Non-manual worker
≤ € 1.546,87	€ 205,18	€ 189,98
From € 1,546.88 to € 2,413.00	€ 205.18 - (0.2369 x (wages of the manual worker at 100 %) - € 1,546.87)]	€189.98 - (0.2193 x (wages of the non-manual worker at 100 %) - € 1,546.87)]
> € 2.413,00	€ 0	€ 0

This change has not yet been published in the Belgian Gazette.

Anne Ghysels, Legal Counsel

SOCIAL NEWS

ONE-OFF INNOVATION PREMIUMS: EXTENTED FOR 2015-2016

To support the innovative capacity of companies who engage in research and development, a special arrangement for one-off innovation premiums has been put in place in 2006. The measure, which still has a limited duration, has now been extended for the period 2015-2016 in the programme act of 10 August 2015 (B.M. 18.08.2015).

Reminder: the amounts paid to the employee as a one-off innovation premium are not regarded as wages and are therefore exempt from employers' and personal social security contributions and personal income tax. However, these premiums must meet all of the following conditions:

- they are granted for innovation (innovative, spontaneous and internal);
- they are not granted in lieu of wages;
- they are paid to employees who are tied to the employer by an employment contract;
- they are only granted for maximum 10 employees for the same project;
- they are granted per calendar year to a maximum of:
  - 3 employees in enterprises with less than 30 employees;
  - 10 % of the employees in companies of at least 30 employees;
- they are reasonable.The total sum of the premiums paid per calendar year shall not exceed 1 % of the total wage bill of the company. Moreover, the amount of the premium per employee per calendar year shall not exceed one month's gross wages;
- the criteria, the procedures and the identification of the project forming the subject of premiums must be published within the company and must be communicated to the FPS Economy and the NSSO.

Isabelle Caluwaerts, Legal Counsel

SOCIAL NEWS

TEMPORARY AGENCY WORK: ENTITLEMENT TO THE PUBLIC HOLIDAY BETWEEN TWO CONTRACTS

A Royal Decree of 10 August 2015 (B.M. 02.09.2015) introduces a new item on public holidays for temporary agency workers.

Going forward, when two temporary agency work contracts with the same temporary work agency for a mission with the same user are **interrupted** only by a public holiday (or a lieu day for a public holiday), the public holiday (or the lieu day for a public holiday) concerned will be considered a public holiday (or a lieu day for a public holiday) during which the temporary agency worker is in the service of the temporary work agency.

Het principe is ook van toepassing in het geval de feestdag (of de vervangingsdag voor een feestdag) gecombineerd wordt met één of meer dagen waarop er gewoonlijk niet wordt gewerkt in de onderneming van de gebruiker.

Deze nieuwe regeling treedt in werking op 12 september 2015.

EXAMPLE

A temporary agency worker enters into weekly contracts from Monday to Friday with their temporary work agency.
For the week of the public holiday of 11 November, two separate temporary agency work contracts are entered into:

- the first from Monday 9 to Tuesday 10 November;
- the second from Thursday 12 to Friday 13 November.

The public holiday of Wednesday 11 November will be considered a public holiday during which the temporary agency worker will be in the service of the temporary work agency.

Catherine Legardien, Legal Counsel

WAGE ADJUSTMENTS

WAGE ADJUSTMENTS ON 1 SEPTEMBER 2015

Index august 2015	▸ (base 2013) 101,08 ▸ (base 2004) 123,72
Heath index	▸ (base 2013) 101,61 ▸ (base 2004) 122,71
Average over the past four months	▸ 100,66

Wage adjustments on september 2015	
102.07	**Joint sub-commission for the quarry, cement works and lime furnaces industry in the administrative district of Tournai** Introduction of a monthly bonus of EUR 22.50 gross and increase in the additional RCC allowance (unemployment with company contribution) of EUR 22.50 gross. **From 1 January 2014.** Increase in the monthly bonus to EUR 22.73 gross. **From 1 January 2015.**
216.00	**Joint commission for white-collar employees employed in the offices of notaries public** **For all salaries:** Previous salaries x 1.0009 Grant of a recurrent monthly bonus. The figure for 2015 is EUR 172.52 gross. Pro-rata grant for part-time workers. Payment with salary for the month of August 2015. **From 1 January 2015.**
304.00 (304.01)*	**Joint commission for the entertainment industry** **Only for stage arts in Flanders (subsidised organisations falling under the Arts Order):** introduction of a new classification of job positions with corresponding scale salaries. Workers already in employment on 1 September 2015 continue to fall under the rules in force, up until 31 December 2016.
327.01 (327011)*	**Joint commission for adapted work undertakings subsidised by the Flemish Community or the Flemish Community Commission and social workshops accredited and/or subsidised by the Flemish Community** **Only for training staff at adapted work undertakings:** grant of an annual bonus. Figure for 2015 is EUR -197.84 (negative amount), increased by 5.07% of annual pay (gross monthly base salary for August x 12). Reference period (01.09.2014 - 31.08.2015).
330.00 (330.01 and 330201)*	**Joint commission for health service establishments** **Only for hospitals, rest homes, and rest and care homes:** grant of a supplementary annual bonus of EUR 1,205.58 to nursing staff with a special professional qualification (QPP) and EUR 3,616.84 to nursing staff with an individual professional title (TPP).
332.00 (332.01)*	**Joint commission for the French-language and German-language sector for social assistance and health care** **Only for spaces encountered in the Walloon Region:** introduction of the classification of job positions with corresponding scale salaries **From 19 June 2015.**

Patrick Desmyter, Technical Expert

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