

MEMENTO

OF THE EMPLOYER 09



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COLOPHON

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Responsible editor: Alexandre Cleven.
Honorary editor-in chief: Francis Verbrugge.
Editor-in-chief: Yves Stox, yves.stox@partena.be

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40th year – Monthly review





| PROFESSIONAL EXPERIENCE AGREEMENT

ON INTERNSHIP: A WIN-WIN FOR THE COMPANY AND FOR YOUNG PEOPLE

Why do you want to offer an internship within your company? You are looking for support for a specific project. It seems a good idea to introduce potential applicants to your company. You think that in this way, older employees within the company can work together with young people, without too much being at stake.

Work-linked learning offers a clear framework (see October 2016 issue), but perhaps you are looking for a different profile? Moreover, the legal framework of work-linked learning is rather strict. We would like to propose an alternative: the professional experience agreement. This paid form of internship combines all formulas of education, training or internship in the company, for which there is no specific legal framework. For example, the professional experience agreement is often used by companies and recent college or university graduates. The young person acquires additional skills and competences. The company can temporarily call on an extra pair of hands. The young person does indeed perform work, only outside the scope of an employment contract. “Young person” is actually relative, there are no specific age requirements.

A. NEW IN FLANDERS SINCE 1 SEPTEMBER 2018

The Flemish Region has had its own legislation in force since 1 September 2018.¹ The competence for the professional experience agreements has been transferred from the federal government to the federal states; a consequence of the sixth state reform. Flanders has replaced the professional experience agreement with the **professional experience internship**. The professional experience agreement has also changed its name and is now known as the “professional experience contract”.

The new legislation does not change the basic idea of the professional experience agreement. This is why the term “professional experience agreement” in this article also refers to the Flemish professional experience contract. The federal regulations also continue to apply to the **professional experience agreements** concluded before 1 September 2018.

In the Walloon Region and in the Brussels-Capital Region, federal regulations² remain in force and companies and interns can conclude a professional experience agreement.

B. WHEN DO YOU CONCLUDE A PROFESSIONAL EXPERIENCE AGREEMENT?

The primary objective of the professional experience agreements and the professional experience internship consists of offering training to the intern. Work performance is therefore only one means of achieving this objective. This is precisely where the professional experience agreement distinguishes itself from an employment contract.³

A CLEAR GUIDELINE

Can the intern perform all of the tasks entirely autonomously? Is there no need for training or guidance? Then do not conclude a professional experience agreement, but rather an employment contract.⁴

A job seeker, employee, self-employed person or student can enter into a professional experience agreement or professional experience internship. Is this equally possible for an employer in a profit sector as in a non-profit sector?

C. WHICH FORMALITIES MUST BE COMPLIED WITH?

Both the federal and the Flemish legislation impose a number of formalities. These are the following (the details can be found below):

- At the latest at the start of the internship, the company and the intern conclude a written agreement (with a number of mandatory statements).
- The training course within the company is detailed in a training plan. This training plan is approved by the VDAB, Le Forem or Bruxelles Formation.

What happens if these formalities are not observed? Is the professional experience agreement then automatically (possibly retroactively) reclassified as an employment contract, with the result that social security contributions also become payable?

No, it is only considered to be an employment contract if work is performed in a subordinate context. This cannot be inferred from not respecting these formalities.⁵

D. IS A PROFESSIONAL EXPERIENCE AGREEMENT MANDATORY?

The professional experience agreement is intended as a safety net for internships for which no other form of internship can be chosen. The minimum employment conditions are intended to protect interns. This would mean that a professional experience agreement or professional experience contract is mandatory if no other form of internship is possible.

Nevertheless, the Federal Minister for Employment (before the sixth state reform) was of the opinion that one is not obliged to opt for the professional experience agreement.⁶ In any case, the risk of requalification as an employment contract on concluding a paid internship agreement outside the scope of the professional experience agreement or the professional experience internship increases.

E. NO SOCIAL SECURITY CONTRIBUTIONS

Since 1 July 2015, interns bound by a professional experience agreement or a professional experience internship are generally not subject to social security as for employees. However, a contribution obligation does apply when an intern meets the criteria set out in the concept of "student" in the context of work-linked learning.⁷

F. UNEMPLOYMENT BENEFIT DURING THE INTERNSHIP CAN BE GRANTED

During the internship, the intern may be exempted from certain obligations as a job seeker. For example, the requirement to actively seek work. The procedure and scope of the exemption depend on the place of residence of the intern (in the Flemish Region, the Walloon Region or the Brussels-Capital Region). If the exemption is granted, the intern will continue to receive unemployment benefits.

G. FLEMISH REGION – PROFESSIONAL EXPERIENCE INTERNSHIP

The professional experience internship is a paid training course in the workplace in which the intern acquires competences and work experience, without the VDAB offering any supervision.⁸ An agreement is concluded between the employer and the intern to pursue the professional experience internship: the professional experience contract.

In summary, the professional experience internship cannot take place in the following situations.⁹

- The young person is following a training programme that is conducted within the framework of an ongoing employment contract.
- The young person performs work within the scope of a training programme he or she is following.
- The internship is preparation for practising a liberal profession.
- The internship is organised within the scope of a course or training programme and leads to the obtaining of a diploma or certificate.
- Employment with a student contract.¹⁰

Employers with a subsidiary in the Flemish Region or in the Brussels-Capital Region can offer the professional experience internship. The employer with a subsidiary in the Brussels-Capital Region must however obtain approval of the training plan from the VDAB.

1. THE PROFESSIONAL EXPERIENCE CONTRACT

A professional experience contract must be drawn up separately in writing for each intern, at the latest at the time when the intern commences the professional experience internship.

The professional experience contract contains the following statements (a specific model is not mandatory):

- the name and principal place of residence of the intern;
- as regards the employer, the name and principal place of residence of the employer or the name and place of business of the undertaking;
- the place of performance of the professional experience internship;
- the description of the activities that take place in the workplace within the scope of the professional experience internship;
- the starting date and duration of the professional experience internship;
- the daily and weekly duration of presence in the company;
- the remuneration;
- the way in which the professional experience internship can be terminated;
- the training plan agreed between the parties and approved by the VDAB;
- the rights and obligations of the parties.

2. THE TRAINING PLAN

The training plan agreed between the parties is approved by the VDAB prior to the commencement of the professional experience internship. That training plan includes:

- the competences to be acquired;
- the way in which these competences are taught;
- a justification for the period of the professional experience internship agreed between the parties;
- the identity of the parties;
- the address at which the intern is domiciled.

3. THE MAXIMUM DURATION

The professional experience internship lasts a maximum of six months.¹

4. THE GRANTING OF A MINIMUM REMUNERATION

The professional experience contract must provide for the payment of remuneration to the intern.¹²

This remuneration amounts to at least half of the guaranteed average minimum monthly income (GMMI), irrespective of the age of the intern.

**An amount corresponding to half of the GMMI
(since 1 September 2018): EUR 796.90**

The compensation is applied in proportion to the employment fraction.

5. OCCUPATIONAL ACCIDENT INSURANCE

The employer must insure the intern against accidents during the training and on the way to and from the training location.¹³

This insurance must offer the same guarantees as for the Workers' Compensation Law. In the event of an accident, the intern's compensation is calculated on the basis of the salary to which an adult employee employed in the profession being taught is entitled.

6. THE INTERN'S LIABILITY

The employer insures the intern who causes damage to the employer or to third parties as part of his or her professional experience internship.¹⁴

7. TERMINATION

Each party can unilaterally terminate the professional experience contract with a notice period of three days, without owing any compensation. If the intern has concluded an employment contract (as a blue-collar worker or a white-collar employee), he or she may terminate the professional experience contract with a notice period of one day, without owing any compensation. The parties can terminate the professional experience contract by mutual agreement, without having to observe a notice period or owing compensation.¹⁵

H. WALLOON REGION AND BRUSSELS-CAPITAL REGION - PROFESSIONAL EXPERIENCE AGREEMENT

The professional experience agreement is also an agreement whereby the intern acquires specific knowledge or skills from an employer in the course of his or her training by performing work.

In summary, the professional experience agreement is not possible in the following situations.¹⁶

- The young person follows a training programme that takes place within the framework of an ongoing employment agreement.
- The young person performs work in the framework of a training programme that he or she follows insofar as the total duration of this work performance does not exceed sixty days per year (with the same employer or internship supervisor).
- The internship is a preparation for the exercise of a liberal profession.
- The internship is organised within the scope of a course or training programme and leads to the obtaining of a diploma or certificate.
- Employment with a student contract.¹⁷

Employers with a subsidiary in the Walloon Region or in the Brussels-Capital Region can offer the professional experience agreement.

1. THE PROFESSIONAL EXPERIENCE AGREEMENT

A professional experience agreement must be drawn up separately in writing for each intern, at the latest at the time when the intern commences the performance of his or her professional experience agreement.¹⁸

In case the training programme is not organised on the initiative or under the responsibility of an educational institution or training centre, the agreement must contain at least the following information:¹⁹

- with regard to the intern: the surname, first names and principal place of residence;

- as regards the employer: the surname, first names and principal place of residence or the company name and registered office;
- the place where the contract is executed;
- the subject and duration of the professional experience agreement; this term shall depend on the time necessary to acquire the required skills;
- the daily and weekly duration of presence in the company;
- the agreed remuneration or the method and basis of calculation of the remuneration;
- the way in which the professional experience agreement can be terminated;
- the training plan agreed between the parties and recognised by the competent authorities.

2. THE TRAINING PLAN

The training plan must be approved by Bruxelles Formation (for French speakers in the Brussels-Capital Region), Le Forem (in the Walloon Region) or the Arbeitsamt der Deutschsprachigen Gemeinschaft (in the German-speaking Community).

3. THE MAXIMUM DURATION

The programme law does not provide for an explicit maximum duration. In practice, the competent public authority can restrict the approval of the duration of the training plan. For example, Bruxelles Formation sets a maximum duration of six months.

4. THE GRANTING OF A MINIMUM REMUNERATION

The professional experience agreement must provide for the payment of a minimum remuneration to the intern. In particular, the minimum remuneration corresponds to a percentage (depending on the age of

the young person) that is calculated on the basis of half the guaranteed average minimum monthly income (GGMMI). The result is rounded to the higher multiple of 10 cents.²⁰

Age of the young person	Percentage to be applied to half of the GGMMI	Amount corresponding to half of the GGMMI (since 1 September 2018)	Monthly minimum remuneration
15 years	64%	EUR 796.90	EUR 510.10
16 years	70%	EUR 796.90	EUR 557.90
17 years	76%	EUR 796.90	EUR 605.70
18 years	82%	EUR 796.90	EUR 653.50
19 years	88%	EUR 796.90	EUR 701.30
20 years	94%	EUR 796.90	EUR 749.10
21 years and over	100%	EUR 796.90	EUR 796.90

5. OCCUPATIONAL ACCIDENT INSURANCE

For interns who are not subject to social security for employees, the legislation does not impose an obligation to take out occupational accident insurance. The scope of the Workers' Compensation Law is not explicitly extended to interns associated with a professional experience agreement.

6. THE INTERN'S LIABILITY

If the intern causes damage to the employer or to third parties, he or she will be liable for his or her deception, serious misconduct or a small fault of a normal nature.²¹

7. TERMINATION

The parties determine in the professional experience agreement how the agreement can be terminated. The legislation does not provide for a specific regulation.

The Brussels-Capital Region: the First internship

First internship (first work experience internship) allows you to integrate a young person with a low or medium level of education into your company and give him or her a first work experience. The young person must:

- be younger than 30;
- hold at most a higher secondary education diploma or certificate;
- be domiciled in the Brussels-Capital Region;
- be registered with Actiris for a minimum of 78 days as a non-working job-seeker.

The intern, the company and Actiris conclude an internship agreement, which must be supplemented by a supervision plan. The duration of the internship is at least three and at most six months. During his or her internship, the intern receives:

- a daily internship allowance currently set at EUR 26.82 and payable by the Brussels-Capital Region (Actiris);
- a monthly remuneration of EUR 200 paid by the company. This remuneration is not subject to social security contributions.

Yves Stox, Senior Legal Counsel

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- 1 Order of the Flemish Government of 5 June 2009 concerning the organisation of job placement and vocational training, Art. 111/0/21 to 111/0/29 (introduced by the Order of the Flemish Government of 6 July 2018).
 - 2 Programme law of 2 August 2002, Chapter X, Art. 104 to 112.
 - 3 Court of Cassation 11 December 2017, *JTT* 2018, 177; Arbh. Brussels 28 November 2013, *JTT* 2014, 341.
 - 4 Arbh. Mons 8 January 2015, *JTT* 2015, 434
 - 5 Court of Cassation 11 December 2017, *JTT* 2018.
 - 6 Question B. ANCIAUX 12 July 2013, Question and Answer Senate 2012-13, no. 5-9539.
 - 7 Implementation decree NOSS law, Art. 1bis.
 - 8 Order of the Flemish Government, Art. 1, paragraph 1, 29.
 - 9 Order of the Flemish Government, Art. 111/0/21.
 - 10 Employment Contracts Law Art. 120 - 130b.
 - 11 Order of the Flemish Government, Art. 111/0/27.
 - 12 Order of the Flemish Government, Art. 111/0/25-Art. 111/0/26.
 - 13 Order of the Flemish Government, Art. 111/0/29(1)
 - 14 Order of the Flemish Government, Art. 111/0/29(2)
 - 15 Order of the Flemish Government, Art. 111/0/29.
 - 16 Programme law, Art. 104 (2)
 - 17 Employment Contracts Law Art. 120 - 130b.
 - 18 Programme law, Art. 105.
 - 19 Programme law, Art. 106.
 - 20 The joint committees have the option of setting higher minimum amounts.
 - 21 Employment Contracts Law Art. 18; Programme law, Art. 107, § 2.



NEWS

ECO VOUCHERS: SECTOR BY SECTOR

The end of the year brings additional obligations for many employers. Awarding eco vouchers is one of these in a great many joint committees.

We will help you to make sense of it all. Below you will find an overview of the joint committees that oblige the awarding of eco vouchers at the end of the year (with the exact date on which eco vouchers are awarded). This makes it easy to check whether your employees are entitled to eco vouchers in the coming months.

Joint Committee No.	Designation of the Joint Committee	Exact date of payment
JC 105	JC for non-ferrous metals	Together with the salary settlement for October
JC 111.01-02	JC for metal, mechanical and electrical construction: industrial and artisanal metalworking	Annually on 1 October
JC 111.03	JC for metal, mechanical and electrical construction: external installers of bridges and metal trusses	Annually on 1 October
JC 112	JC for the garage	On 15 June and 15 December (two half-yearly instalments)

Joint Committee No.	Designation of the Joint Committee	Exact date of payment
JC 132	JC for enterprises in technical agriculture and horticulture	By the end of December
JC 140.01 (garage staff)	JSC for buses and coaches	On 15 June and 15 December (two half-yearly instalments)
JC 140.03 (non-mobile personnel, including garage staff)	JSC for road transport and logistics for the account of third parties	The end of December
JC 140.04	JSC for ground handling at airports	By 31 December
JC 142.01	JSC for the recovery of metals	15 June and 15 December (two half-yearly instalments)
JC 144	JC for agriculture	In December, together with the end-of-year bonus ¹
JC 145 (except for JC 145.04)	JC for horticulture	In December, together with the end-of-year bonus ²
JSC 145.04	JSC for the planting and maintenance of parks and gardens	In December, together with the loyalty premium ³
JSC 149.01	JSC for electricians: installation and distribution	Annually on 15 November
JSC 149.02	JSC for bodywork	15 June and 15 December (two half-yearly instalments)
JC 220	JC for white-collar employees in the food industry	Together with the first salary payment that follows 31 December of each year

Joint Committee No.	Designation of the Joint Committee	Exact date of payment
JC 224	JC for non-ferrous metal employees	Together with the salary settlement for October
JC 226	JC for white-collar employees from international trade, transport and logistics	At the beginning of December
JC 302	JC for hotels	In December
JSC 303.03	JSC for the operation of cinema halls	Together with the salary settlement for December
JC 307	JC for brokerage and insurance agencies	At the latest in the fourth quarter
JC 308	JC for mortgage and capitalisation companies	During the course of December
JSC 315.02	JSC for the airlines	1 January
JC 325	JC for public credit institutions	By 31 December

A. DO ECO VOUCHERS STILL EXIST?

Last year, the eco vouchers were suddenly in the spotlight because the government had taken the initiative to abolish them entirely and replace them with a net payment (the eco allowance). Similar to eco vouchers, no payroll withholding tax or social security contributions would be owed on this net payment.

However, this proposal met with strong opposition from the social partners (both employers and employees) and the publishers of these eco vouchers. The Council of State also expressed a negative opinion on the abolition of eco vouchers.

It therefore seems that the abolition of eco vouchers has been postponed for the (considerable) time being. However, the aim is to make the eco voucher system more attractive by simplifying and expanding the list of products and services. The choice of electronic eco vouchers is also promoted, but this is not yet an obligation (unlike meal vouchers).

B. ECO VOUCHERS: A BRIEF HISTORY

Eco vouchers were introduced on the basis of the 2009-2010 inter-professional agreement (IPA). An inter-professional agreement is an agreement that is concluded every two years by the Group of Ten (a group consisting of representatives of the employees' and employers' associations) and establishes, among other things, how much the payroll costs can increase (the wage norm). The provisions of the IPA form the framework for the negotiations of the agreements at the sector level. In the framework of the

wage norm law,⁵ the social partners have set the negotiation envelope for the period 2009-2010 at EUR 250 net (i.e. without additional charges of any kind for employers).⁵

The social partners then determined how this net amount of EUR 250 (EUR 125 in 2009) could be allocated. In addition to an increase in the value of meal vouchers (from 6 to EUR 7 at the time) and of the limit for the mobility allowance, "green vouchers" were also created. These "green vouchers", which are exempt from taxes and social security contributions, were only used to purchase eco-friendly products and services. The eco vouchers were born!⁶

C. ECO VOUCHERS: WHAT CAN WE BUY WITH THEM?

Employees can only use eco vouchers to purchase products or services of an ecological nature that are explicitly included in the list appended to CLA no. 98.

Since the establishment of eco vouchers, this list has undergone a great deal of simplification as well as expansion. Today there are three generic categories:

- Ecological products and services
- Sustainable mobility and leisure
- Reuse, recycling and waste prevention

The final result is a table divided according to these three categories, with each category consisting of a number of sections. The complete table can be found as an annex under CLA no. 98 quinquies.

D. ELABORATION AT SECTORAL LEVEL

CLA no. 98 does not determine who is entitled to eco vouchers; the detailed elaboration takes place at sectoral level. Other elements may also differ depending on the sector: the amount, the payment date, the method of calculating eco vouchers and the reference period.

1. PRO RATA ALLOCATION

For example, the sector CLA can provide, among other things, that the value of the eco vouchers must be prorated for part-time employees.

EXAMPLE

JC 200 (Supplementary National Joint Committee for white-collar employees) stipulates that part-time employees receive eco vouchers in accordance with the following scales:

Weekly working hours	
From 4/5 of a full-time job	EUR 250
From 3/5 of a full-time job	EUR 200
From 1/2 of a full-time job	EUR 150
Less than 1/2 of a full-time job	EUR 100

2. TRANSPOSITION: ANOTHER BENEFIT

Sometimes the sector also provides that eco vouchers can be replaced by another benefit, provided certain conditions are observed.

EXAMPLE

In JC 307 (brokerage and insurance agencies), eco vouchers can be converted into an equivalent benefit annually by means of a written agreement with all employees or via a company CLA. This conversion must take place before the end of March.⁷

3. SINGLE OR RECURRENT

Eco vouchers are usually awarded annually, which means that this is a recurring benefit, but there are also sectors that provide for the single allocation of eco vouchers.

EXAMPLE

This is the case, for example, for companies in the plastic processing industry in the province of West Flanders. Employees of these companies will receive one-off eco vouchers of EUR 150 in 2018.

E. OVERVIEW PER SECTOR

If you would like to know whether eco vouchers are mandatory in your sector or if you would like more information on eco vouchers, you can consult our sectoral information at any time.

This is available on our website and contains a detailed analysis of the provisions on eco vouchers per joint committee. You will find information regarding the:

- Legal source governing the allocation of eco vouchers
- Definition of eco vouchers

- Employees who are entitled to eco vouchers
- The amount and the awarding conditions
- Possible conversion at the company level
- Provision of information to employees
- Date of award
- What to do in case of termination of the employment contract

The table below provides a summary of the extensive information available on our [website](#) and gives an overview of all joint committees that issue eco vouchers, their amount, the payment date and the reference period.⁸

JC	Amount per year/scales	Payment date	The reference period for the allocation of eco vouchers	
			from	to
105 (non-ferrous metals)	EUR 250	Together with the salary settlement for October	1 October of a given year	30 September of the following year
111.01-02 (industrial and artisanal metal processing)	EUR 250	1 October	1 October of the previous year	30 September of the current year
111.03 (external installers of bridges and metal trusses)	EUR 250	1 October	1 October of the previous year	30 September of the current year
125.02 (sawmills and related industries)	EUR 250	1 July	1 July of the previous calendar year	30 June of the current calendar year

JC	Amount per year/scales	Payment date	The reference period for the allocation of eco vouchers	
			from	to
200 (supplementary for white-collar employees)	EUR 250	During June	June of the previous calendar year	May of the calendar year concerned
202 (retail trade in foodstuffs)	EUR 250	During June	June of the previous calendar year	May of the calendar year concerned
220 (food industry)	EUR 250	Together with the first salary payment that follows 31 December of each year	1 January	31 December
224 (non-ferrous metals)	EUR 250	Together with the salary settlement for October	1 October of a given year	30 September of the following year
302 (hotel company)	EUR 250	December	1 December of the previous year	30 November of the year of payment
307 (brokerage and insurance agencies)	EUR 215	At the latest in the 4th quarter	1 December of the previous year	30 November of the year of allocation
315.02 (airlines)	EUR 100	1 January	1 January	31 December
341 (mediation in banking and investment services)	EUR 250	During June	June of the previous calendar year	May of the calendar year concerned

Leen Lafourt, Legal Expert

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- 1 The calculation, order and coordination are done by the social fund.
 - 2 The calculation, order and coordination are done by the social fund.
 - 3 The calculation, order and coordination are done by the social fund.
 - 4 Opinion of the Council of State No. 61.016/1 and 61.017/1 of 21 March 2017.
 - 5 A maximum amount of EUR 125 could be granted for 2009.
 - 6 The general framework of eco vouchers is included in the National Labour Council CLA no. 98. This CLA was last amended by CLA no. 98d of 23 May 2017.
 - 7 We will come back to this in a later article.
 - 8 Selected sources: Exceptional agreement for negotiations at the sector and company level in the period 2009-2010 of 22 December 2008; CLA no. 98 of 20 February 2009; CLA of 21 December 2018 on the determination of some employment conditions for the plastic processing industry of the province of West Flanders (reg. no. 144.979); Opinion no. 2.033 of the National Labour Council; CLA of 2 February 2016 concerning eco vouchers (reg. no. 132.737); CLA of 9 June 2016 regarding eco vouchers (reg. no. 134.425).



STATUTORY PUBLIC HOLIDAYS IN 2019

A. NOTICE TO BE ANNEXED TO THE WORK REGULATIONS

1. THE STATUTORY PUBLIC HOLIDAYS IN 2019 ARE:

Tuesday, 1 January	New Year's Day	Sunday, 21 July	National Day
Monday, 22 April	Easter Monday	Thursday, 15 August	Assumption
Wednesday, 1 May	Labour Day	Friday, 1 November	All Saints' Day
Thursday, 30 May	Ascension	Monday, 11 November	Armistice Day
Monday, 10 June	Whit Monday	Wednesday, 25 December	Christmas Day

2. REPLACEMENT OF PUBLIC HOLIDAYS FALLING ON A NON-WORKING DAY FOR THE BUSINESS

- The public holiday falling on Sunday, 21 July will be replaced by
- If the normal non-working day for the business is not a Saturday, the following public holiday(s) will be replaced as follows:
.....

3. LIEU DAY FOR WORKING ON A PUBLIC HOLIDAY (SECTIONS. 11 AND 12 OF THE ACT OF 04.01.1974)

Lieu days for working on a public holiday are granted as follows:

- the lieu day will be granted within 6 weeks of the public holiday;
- if the worker has worked for more than 4 hours, the time off in lieu will be a full day;
- if the worker has worked for 4 hours or less, the time off in lieu will be a half-day to be taken before or after 1.00 p.m. (13.00); in any event, no worker will work for more than 5 hours on that day;

- if the worker is employed part-time, the time off in lieu will be equal to the actual time worked on the public holiday;
- time off in lieu is taken from working time;
- if a break in the contract of employment (e.g. : due to illness) means that the time off in lieu cannot be taken during that period, the time off in lieu will be granted within 6 weeks of the end of that break period;
- a worker serving out notice of termination will take his time off in lieu before the expiry of that notice.

Done at (date)

Signature of workers' representative(s)

Signature of employer or his representative

 **NOTE**

- If a public holiday coincides with a normal working day but falls during an annual holiday period, the public holiday keeps its quality and it is not replaced by a normal working day falling outside the annual holiday period.
 - If a public holiday falls on a normal non-working day for the business (e.g. : Monday in the hairdressing industry), the public holiday must be replaced.
-

4. REPLACEMENT FOR PUBLIC HOLIDAYS IN 2019 THAT COINCIDE WITH A SUNDAY OR A NORMAL NON-WORKING DAY

The Act of 4 January 1974 with regard to the public holidays makes it compulsory that a public holiday coinciding with a Sunday or a normal non-working day is replaced by a normal working day. For a replacement day, no compensation corresponding to the wage of a working day can be paid. Companies that are working the first 5 days of the week must not forget to replace Sunday 21 July 2019 by another day.

5. REPLACEMENT GUIDELINES

The Act of 4 January 1974 stipulates that a public holiday must be replaced according to one of the following procedures:

- for the whole sector: by a decision of the joint committee prior to 1 October 2018, rendered mandatory by Royal Decree (this procedure is normally observed by the banking sector);
- in default thereof, at company level by a decision of the works council or, in default thereof, by an agreement with the trade union delegation or, in default thereof, by an agreement between the employer and the workers prior to 15 December 2018;
- if there is no agreement within the company, by an individual arrangement between the employer and the workers individually.

If the replacement days are not determined according to one of the above-mentioned procedures, public holidays coinciding with a Sunday or a normal non-working day are in all cases replaced by the first normal working day following that public holiday.

B. PROCEDURE

1. NOTIFICATION TO THE WORKERS

Pursuant to the Act of 4 January 1974 (art. 13), the employer is obliged, before 15 December 2018, to post on a visible location on the company's premises a signed and dated notification in which the replacement days of the public holidays for 2018 are stated as well as the implementing rules for the time off in lieu if the worker works on a public holiday.

2. SOCIAL INSPECTION

A copy of the notification must be sent to the Supervisory Board on the social legislation (Federal Public Service Employment, Labour and Social Dialogue) of the location where the company is established (place of business).

3. INFORMATION FOR THE PAYROLL OFFICE

The public holidays are preprinted on the time sheet. However, the employers are requested to put the ad-hoc codes against the days in replacement for public holidays that coincide with a Sunday or a normal non-working day and the days off in lieu.

