

31/07/2024

Important changes concerning employment contracts and the employment relationship

The Law of 24 July 2024, transposing EU Directive 2019/1152 of 20 June 2019 on transparent and predictable working conditions in the European Union has been published in the Mémorial A No 324 of 31 July 2024.

The Law comes into force on 4 August 2024.

The main key attention points for employers are as follows:

1. Adaptation of the mandatory terms of the employment contract (permanent and fixed-term), the apprenticeship contract, the mission contract to be established by the temporary employment agency and the engagement contract for pupils and students during their school holidays.

In practice:

> **Consider reviewing your templates for future contracts**, by including the new mandatory terms.

> For current contracts, there is no obligation to amend them, but the employee may ask you for a document complying with the new provisions. You will then have 2 months to communicate the aforementioned document.

2. Prohibition in principle of "exclusivity clauses" ("clause d'exclusivité"). However, it will still be possible to include an exclusivity clause in contracts, provided that the clause is justified by an "objective reason".

In practice:

> **Be careful when drafting exclusivity clauses.**

> If your current contracts contain exclusivity clauses that do not comply with the new requirements, they are no longer valid, in which case you should consider amending them by addendum to the employment contract.

3. Framework for the trial period of fixed-term contracts, which must now be a minimum of 2 weeks and a maximum of $\frac{1}{4}$ of the duration of the fixed-term contract or the minimum duration for which the fixed-term contract was concluded.

For example, it is no longer possible to include a 6-month trial period in an 8-month fixed-term contract (in this example, the trial period must be a maximum period of 2 months).

4. Employee's right to request a change to another form of employment.

Employees may now request (in writing or orally), once every 12 months, a change from a fixed-term contract to a permanent contract, or from a full-time contract to a part-time contract or from a part-time contract to a full-time contract.

Employees will be able to apply if they meet the following conditions:

- > at least 6 months' seniority with the same employer; and
- > expiry of the trial period agreed in the contract.

Please note: you have **one month** to respond to the request, either by amending the employment contract or by giving precise reasons in writing for your refusal.

5. Penalties for non-compliance with these provisions: fines of between EUR 251 and EUR 5,000 per employee concerned (doubled in the event of a repeated offence within 2 years).

Our Employment Law department will be happy to assist you with any questions or problems you may have regarding the new Law, as well as reviewing and adapting your current template contracts and, if necessary, helping you to draw up new contracts.

EXPERTISE

EMPLOYMENT & SOCIAL

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