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Luxembourg: Notice period to employees

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Luxembourg

Phase:

Management

Type:

Notice period to employees

Last modified: 05 November, 2019

Native name:

Code du travail; Loi du 23 juillet 2015 portant réforme du dialogue social à l'intérieur des entreprises

English name:

Labour Code; Law of 23 July 2015 reforming social dialogue within companies

Article

L. 124-2, L.124-3, L. 124-4 of the Labour Code; article L. 414-9 of the law reforming social dialogue within companies

Description

An employer who terminates an employment contract for a reason other than serious misconduct must give a notice period to the employee. In companies with fewer than 150 employees, the employer may dismiss with an immediate notice. If the company employs 150 staff members or more, the notification of dismissal must take place at the earliest the day after the pre-dismissal interview; or at the latest 8 days after the pre-dismissal interview.

In order to summon an employee to a pre-dismissal interview, the employer must write a summons stating the reason for the summoning, i.e. the envisaged dismissal of the employee; the date, time and location of the interview. Furthermore, the employer must also send a copy of the summons to the staff delegation. However, since 1 August 2016, the employer does not have to send a copy of the summons to the Inspectorate of Labour and Mines (ITM) any longer.

As mentioned in the summons, during the pre-dismissal interview, the employee can request to be assisted by either another employee in the company or by a delegate of a national representative union organisation which is represented in the staff delegation. The employer can also request to be assisted by either a member of staff or by a representative of an employers' organisation.

The duration of the notice period depends on the employee's length of service at the time of the dismissal notification:

- two months before the redundancy becomes effective, if the length of service is up to 5 years;
- four months for 5–9 years of service;
- six months for service of at least 10 years.

The employer informs the employee of the termination with notice of the employment contract in writing either by registered letter; or by giving the letter in person to the employee, who must acknowledge receipt by counter-signing a copy of the letter.

The notice period begins on the:

- 15th day of the current month, if the letter of dismissal was notified to the employee before the 15th;
- 1st day of the following month, if the letter of dismissal was notified to the employee between the 15th and the last day of the month.

Notice periods are shorter if the employee decides to leave the company:

- one month before the redundancy becomes effective, if the length of service is up to five years;
- two months for 5–9 years of service;
- three months for service of at least 10 years.

The employer may exempt the employee from work during his notice period, in full or in part. In order to do this, the employer must:

- notify the exemption from work in writing either in the letter of dismissal or in a subsequent letter;
- continue to pay the employee his/her full salary as well as any other benefits, excluding work-related costs (e.g. meal allowance, travel allowance, etc.);
- continue to grant the employee any salary increases that may occur during the notice period.

Comments

The law of 23 July 2015 reforming social dialogue within companies ([Loi du 23 juillet 2015 portant réforme du dialogue social à l'intérieur des entreprises](#)) introduced some changes such as the fact that the employer must send a copy of the summons to the staff delegation, and that the summons do not need to be sent to (ITM) any longer.

Until 31 December 2017, whenever an employee took on new employment during the notice period, the former employer had to pay, until the end of the notice period, the difference between the employee's previous and new salary (if lower) and the employer's social security contributions relating to the difference in salaries paid (if any).

Cost covered by

Not applicable

Involved actors other than national government

Employer organisation







Trade union

Works council

Thresholds

No, applicable in all circumstances

Sources

-  [Labour Code](#)
-  [Guichet.lu \(governmental website\) - Dismissal with notice \(English\)](#)
-  [Guichet.lu \(governmental website\) - Licenciement avec préavis \(French\)](#)
-  [EMCC legal framework of restructuring](#)
-  [EurWork, Luxembourg: Reform of employee representation in companies, 15 December 2015](#)
-  [Loi du 23 juillet 2015 portant réforme du dialogue social à l'intérieur des entreprises](#)

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