

**RÉPUBLIQUE  
FRANÇAISE****Légifrance**

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## **Code de commerce**

### **Version in force on March 2, 2023**

Legislative part (Articles L110-1 to L960-4)  
BOOK I: Commerce in general. (Articles L110-1 to L154-1)

#### **TITLE I: Of the act of commerce. (Articles L110-1 to L110-4)**

##### **Article L110-1**

**Modified by Ordinance n°2021-1192 of September 15, 2021 - art. 28**

The law deems acts of commerce:

- 1° Any purchase of movable property for resale, either in kind or after having worked on and put it to use;
- 2° Any purchase of immovable property for the purpose of reselling it, unless the purchaser has acted with a view to erecting one or more buildings and selling them as a whole or by premises;
- 3° All intermediary operations for the purchase, subscription or sale of buildings, goodwill, shares or shares in real estate companies;
- 4° Any furniture rental company;
- 5° Any manufacturing, commission, transport company by land or water;
- 6° Any supply company, agency, business office, auction sales establishment, public entertainment;
- 7° Any foreign exchange, banking, brokerage, electronic money issuance and management activity and any payment service;
- 8° All operations of public banks;
- 9° All obligations between traders, merchants and bankers;
- 10° Between all persons, bills of exchange;
- 11° Between all persons, guarantees for commercial debts.

#### **NOTA :**

*In accordance with I of Article 37 of Ordinance No. 2021-1192 of September 15, 2021, these provisions come into force on January 1, 2022.*

##### **Article L110-2**

The law similarly deems acts of commerce:

- 1° Any construction company, and all purchases, sales and resales of buildings for internal and external navigation;
- 2° All sea shipments;
- 3° Any purchase and sale of tackle, gear and supplies;
- 4° Any charter or charter, borrowing or lending to wholesale;
- 5° All insurance and other contracts relating to sea trade;
- 6° All agreements and conventions for crew salaries and rents;
- 7° All commitments of seafarers for the service of commercial vessels.

##### **Article L110-3**

With regard to merchants, acts of commerce may be proved by any means unless otherwise provided by law.

**Article L110-4****Modified by LAW n° 2013-619 of July 16, 2013 - art. 32 (V)**

I.- Obligations arising from their trade between traders or between traders and non-traders are prescribed after five years if they are not subject to shorter special prescriptions.

II.- All actions for payment are prescribed:

1° For food supplied to sailors by order of the captain, one year after delivery;

2° For the supply of materials and other things necessary for the constructions, equipment and provisions of the vessel, one year after these supplies have been made;

3° For completed works, one year after acceptance of the works.

**TITLE II: Merchants. (Articles L121-1 to L129-1)****Chapter I: Definition and status. (Articles L121-1 to L121-8)****Section 1: Trader status. (Articles L121-1 to L121-3)****Article L121-1**

Traders are those who carry out acts of commerce and make it their usual profession.

**Article L121-2****Modified by Ordinance n°2019-964 of September 18, 2019 - art. 35 (DV)**

The emancipated minor can be a trader with the authorization of the guardianship judge at the time of the emancipation decision and of the president of the judicial court if he makes this request after having been emancipated.

*NOTA :*

*In accordance with Article 36 of Ordinance No. 2019-964 of September 18, 2019, these provisions come into force on January 1, 2020.*

**Article L121-3**

The spouse of a trader is deemed to be himself a trader only if he exercises a commercial activity separate from that of his spouse.

**Section 2: Spouses of artisans and merchants working in the family business. (repealed)****Section 2: Spouse, partner bound by a civil solidarity pact or common-law partner of the business manager, working in the family business (Articles L121-4 to L121-8)****Article L121-4****Modified by Ordinance n°2021-1189 of September 15, 2021 - art. 1**

I. - The spouse of the head of a craft, commercial or liberal enterprise who regularly carries out a professional activity there opts for one of the following statuses:

1° Collaborating spouse;

2° Employed spouse;

3° Partner spouse.

II. - As far as companies are concerned, the status of collaborating spouse is only authorized for the spouse of the sole associate manager or of the majority associate manager of a limited liability company or a private practice company with limited liability.

The choice made by the spouse of the majority managing partner to benefit from the status of collaborating spouse is brought to the attention of the partners at the first general meeting following the mention of this status to the organizations mentioned in IV.

III. - The professional and social rights and obligations of the spouse result from the status for which he has opted.

IV.- The head of the company is required to declare the regular professional activity of his spouse in the company and the status chosen by the latter to the bodies authorized to register the registration of the company. Only the collaborating spouse is mentioned in the trade and companies register, in the special register of commercial agents, in the special register of sole proprietorships with limited liability and in the national register of companies.

In the absence of a declaration of professional activity, the spouse who has carried out a professional activity on a regular basis in the company is deemed to have done so under the status of salaried spouse.

In the absence of declaration of the chosen status, the business manager is deemed to have declared that this status is that of employed spouse.

IV bis.- A person cannot maintain the status of collaborating spouse for a period of more than five years, taking into account all the periods and companies for which he has opted for this status.

Beyond this period, the spouse continuing to exercise a professional activity on a regular basis in the company opts for the status of salaried spouse or partner spouse. Failing this, he is deemed to have opted for the status of salaried spouse.

V.-The definition of the collaborating spouse, the procedures for the declarations provided for in this article and the other conditions of application of this article are fixed by decree in Council of State.

*NOTA :*

*In accordance with Article 47 of Ordinance No. 2021-1189 of September 15, 2021, these provisions come into force on January 1, 2023.*

#### **Article L121-5**

**Modified by Ordinance n°2021-1189 of September 15, 2021 - art. 1**

A person whose business is mentioned as belonging to the trades and crafts sector in the national register of businesses or a trader may not, without the express consent of his spouse, when the latter participates in his professional activity as spouse working in the business, alienate or encumber with real rights the elements of the goodwill or craft business depending on the community, which, by their importance or by their nature, are necessary for the operation of the business, or lease this goodwill or craft business. He cannot, without this express consent, collect the capital resulting from such operations.

A spouse who has not given express consent to the act may request its annulment. The action for nullity is open to him for two years from the day on which he became aware of the act, without ever being able to be brought more than two years after the dissolution of the community.

*NOTA :*

*In accordance with Article 47 of Ordinance No. 2021-1189 of September 15, 2021, these provisions come into force on January 1, 2023.*

#### **Article L121-6**

**Modified by Ordinance n°2021-1189 of September 15, 2021 - art. 1**

The collaborating spouse, when mentioned in the trade and companies register or, for a company in the trades and crafts sector, in the national register of companies, is deemed to have received from the head of the company the mandate to carry out on behalf of the latter the acts of administration concerning the needs of the company.

By declaration made before a notary, on pain of nullity, each spouse has the option of putting an end to the presumption of mandate, his or her spouse present or duly summoned. The notarized declaration has effect, with regard to third parties, three months after its mention has been entered in the trade and companies register or, for a company in the trades and crafts sector, in the national register of companies. In the absence of this mention, it is opposable to third parties only if it is established that they were aware of it.

The presumption of mandate also ceases automatically in the event of presumed absence of one of the spouses, legal separation or judicial separation of property, as well as when the conditions provided for in the first paragraph above are no longer met. .

*NOTA :*

*In accordance with Article 47 of Ordinance No. 2021-1189 of September 15, 2021, these provisions come into force on January 1, 2023.*

#### **Article L121-7**

**Creation Law n°2005-882 of August 2, 2005 - art. 14 () JORF August 3, 2005**

In relations with third parties, the acts of management and administration performed for the needs of the company by the collaborating spouse are deemed to be on behalf of the head of the company and do not entail the responsibility of the collaborating spouse. no personal obligation.

#### **Article L121-8**

**Amended by LAW n°2021-1754 of December 23, 2021 - art. 24 (V)**

This section is also applicable to persons who are linked to the business manager by a civil pact of solidarity or who cohabit with the business manager.

*NOTA :*

*In accordance with III of article 24 of law n° 2021-1754 of December 23, 2021, these provisions come into force on January 1, 2022.*

### **Chapter II: Foreign traders.**

#### **Article L122-1 (repealed)**

**Repealed by LAW n°2014-1 of January 2, 2014 - art. 21 (V)**

A foreigner who exercises on French territory, without residing there, a commercial, industrial or craft profession, under conditions making it necessary to register or mention it in the trade and companies register or in the trades directory, must declare this to the prefect of the department in which he plans to carry out his activity for the first time under conditions defined by decree.

Nationals of Member States of the European Union, of other States party to the Agreement on the European Economic Area or of the Swiss Confederation are exempt from the declaration obligation provided for in the first paragraph.

#### **Article L122-2 (repealed)**

**Repealed by LAW n°2014-1 of January 2, 2014 - art. 21 (V)**

Any breach of the provisions of Article L. 122-1 and of the implementing decree provided for therein is punishable by six months' imprisonment and a fine of 3,750 euros. The court may also order the closure of the establishment.

#### **Article L122-3 (repealed)**

**Repealed by Law n°2006-911 of July 24, 2006 - art. 22 () JORF July 25, 2006**

I. - The provisions of Articles L. 122-1 and L. 122-2 are not applicable to nationals of a Member State of the European Community, of a State party to the Agreement on the European Economic Area or of a Member State of the Organization for Economic Co-operation and Development acting on their own account or on behalf either of another national of one of these States, or of a company incorporated in accordance with the legislation of the one of these States and having its registered office, its central administration or its main establishment in one of these States.

II. - However, when a foreigner or a company mentioned in I creates an agency, a branch or a subsidiary on the territory of the French Republic or provides services there, the benefit of I is only granted on the condition that :

1° The foreigner is established in the territory of a Member State of the European Community, a State party to the Agreement on the European Economic Area or a Member State of the Organization for Economic Cooperation and Development ;

2° The company, if it has only its registered office within the European Community of a State party to the agreement on the European Economic Area or of a Member State of the Organization for Cooperation and of economic development carries out an activity presenting an effective and continuous link with the economy of one of these States.

#### **Article L122-4 (repealed)**

**Repealed by Law n°2006-911 of July 24, 2006 - art. 22 () JORF July 25, 2006**

A Conseil d'Etat decree sets the conditions for the application of this chapter.

### **Chapter III: General obligations of traders. (Articles L123-1 to L123-57)**

#### **Section 1: Trade and Companies Register (Articles L123-1 to L123-11-8)**

##### **Sub-section 1: Persons required to register. (Articles L123-1 to L123-5-2)**

##### **Article L123-1**

**Modified by Ordinance n°2021-1189 of September 15, 2021 - art. 2**

I.- A trade and companies register is kept in which are registered, on their declaration:

1° Natural persons having the status of trader, even if they are required to register in the national business register;

2° Companies and economic interest groups having their registered office in a French department and enjoying legal personality in accordance with Article 1842 of the Civil Code or Article L. 251-4 ;

3° Commercial companies whose registered office is located outside a French department and which have an establishment in one of these departments;

4° French public establishments of an industrial or commercial nature;

5° Other legal persons whose registration is provided for by legislative or regulatory provisions;

6° Commercial representations or commercial agencies of foreign States, communities or public establishments established in a French department.

II.- Appear in the register, to be brought to the attention of the public, the registrations and deeds or documents filed provided for by decree in Council of State.

*NOTA :*

*In accordance with Article 47 of Ordinance No. 2021-1189 of September 15, 2021, these provisions come into force on January 1, 2023.*

#### **Article L123-1-1 (repealed)**

**Repealed by LAW n°2014-626 of June 18, 2014 - art. 27**

By way of derogation from Article L. 123-1, natural persons exercising a commercial activity as a main or additional activity are exempted from the obligation to register with the Trade and Companies Register as long as they benefit from the regime provided for in Article L. 123-1. article L. 133-6-8 of the social security code.

A Conseil d'Etat decree specifies the conditions of application of this article and, in particular, the procedures for declaring an activity, exempt from registration, to the competent business formalities centre, the conditions for informing third parties on the absence of registration, as well as the methods of declaration of activity following the exceeding of the threshold.

The persons mentioned in the first paragraph whose main activity is salaried may not carry out on a complementary basis with their employer's clients, without the agreement of the latter, the professional activity provided for in their employment contract.

## Article L123-2

No one can be registered in the register if he does not fulfill the conditions necessary for the exercise of his activity. Legal persons must, in addition, have completed the formalities prescribed by the legislation and regulations in force concerning them.

## Article L123-3

**Modified by LAW n°2012-387 of March 22, 2012 - art. 1**

If a trader who is a natural person fails to request his registration within the prescribed period, the judge appointed either ex officio or at the request of the public prosecutor or any person justifying having an interest therein, issues an order enjoining him, where appropriate under penalty, to apply for registration.

Under the same conditions, the judge may enjoin, if necessary under penalty, to any person registered in the trade and companies register who has not requested them within the prescribed time limits, to make either additional mentions or rectifications that he must have it entered, either with the necessary mentions or corrections in the event of inaccurate or incomplete declarations, or with deletion.

The clerk of a court which issues a decision requiring a person to register must notify this decision to the clerk of the commercial court in whose jurisdiction the person concerned has his registered office or main establishment. The clerk of the commercial court to which the decision is addressed refers the matter to the judge responsible for overseeing the register.

## Article L123-4 (repealed)

**Repealed by LAW n°2012-387 of March 22, 2012 - art. 1**

The fact that any person required to request registration, an additional or corrective statement, or a deletion from the trade and companies register, does not, without an excuse deemed valid, within fifteen days of the date on which the order issued by the judge responsible for monitoring the register enjoining him to request one of these formalities, to comply with this injunction, is punished by a fine of 3750 euros.

The court may, in addition, deprive the person concerned, for a period not exceeding five years, of the right to vote and to be eligible for elections to commercial courts, territorial chambers of commerce and industry and industrial tribunals. 'men.

The court orders that the registration, mentions or deletion which must appear in the trade and companies register will be entered therein within a specified period, at the request of the interested party.

## Article L123-5

**Modified by LAW n°2012-387 of March 22, 2012 - art. 1**

The fact of giving, in bad faith, inaccurate or incomplete information with a view to registration, deregistration or an additional or rectifying mention in the trade and companies register is punishable by a fine of 4,500 euros and six months' imprisonment.

The competent court may, in addition, deprive the person concerned, for a period not exceeding five years, of the right to vote and to be eligible for elections to commercial courts, chambers of commerce and industry and industrial tribunals. 'men.

## Article L123-5-1

**Creation Law n°2001-420 of May 15, 2001 - art. 123 () JORF May 16, 2001**

At the request of any interested party or the public prosecutor, the president of the court, ruling in summary proceedings, may order the manager of any legal person under penalty to file the documents and deeds in the commercial and companies register to which it is subject. bound by legislative or regulatory provisions.

The chairman may, under the same conditions and for the same purpose, appoint a representative responsible for carrying out these formalities.

**Article L123-5-2****Creation LAW n°2018-938 of October 30, 2018 - art. 8**

When the managers of a commercial company processing agricultural products, marketing food products, operating, directly or indirectly, one or more retail stores of consumer products or intervening in the distribution sector as a referencing center or purchasers of retail businesses do not deposit accounts under the conditions and time limits provided for in Articles L. 232-21 to L. 232-23, the president of the commercial court may send this company an injunction to do so at short notice under penalty. The amount of this penalty may not exceed 2% of the average daily turnover excluding tax achieved in France by the company for this activity, per day of delay from the date set by the injunction.

**Sub-section 2: Keeping of the register and effects attached to registration. (Articles L123-6 to L123-9)****Article L123-6****Modified by Ordinance n°2021-1189 of September 15, 2021 - art. 2**

The trade and companies register is kept by the clerk of each commercial court, under the supervision of the president or a judge appointed for this purpose, who are competent for all disputes between the taxable person and the clerk.

*NOTA :*

*In accordance with Article 47 of Ordinance No. 2021-1189 of September 15, 2021, these provisions come into force on January 1, 2023.*

**Article L123-7**

The registration of a natural person entails a presumption of trader status. However, this presumption is not opposable to third parties and administrations that provide evidence to the contrary. Third parties and administrations are not allowed to rely on the presumption if they knew that the registered person was not a trader.

**Article L123-8**

The person subject to registration who has not requested the latter at the end of a period of fifteen days from the start of his activity, cannot avail himself, until registration, of the quality of trader both at the towards third parties and public administrations. However, it cannot invoke its lack of registration in the register to evade the responsibilities and obligations inherent in this quality.

Without prejudice to the application of Article L. 144-7, the registered trader who transfers his business or who concedes the operation thereof, in particular in the form of lease-management, may not oppose the cessation of his commercial activity, in order to avoid liability actions to which he is subject as a result of the obligations contracted by his successor in the operation of the fund, only from the day on which the deletion or the corresponding mention was made.

**Article L123-9**

The person subject to registration may not, in the exercise of his activity, oppose either to third parties or to public administrations, which may however rely on them, the facts and acts subject to mention only if the latter have been published in the register.

In addition, the person subject to the filing of deeds or documents appended to the register may only oppose them to third parties or to the authorities if the corresponding formality has been carried out. However, third parties or administrations may avail themselves of these deeds or documents.

The provisions of the preceding paragraphs are applicable to facts or acts subject to mention or filing even if they have been the subject of another legal publicity. However, third parties and administrations who had personal knowledge of these facts and acts cannot rely on it.

**Article L123-9-1 (repealed)****Repealed by LAW n°2019-486 of May 22, 2019 - art. 1 (V)**

The clerk of the court or the organization mentioned in the last paragraph of article 2 of law n° 94-126 of February 11, 1994 relating to the initiative and the individual company issues a receipt for the filing of the creation file free of charge. to any person subject to registration in the register, as soon as the latter has submitted a complete registration application file. This receipt makes it possible to carry out, under the personal responsibility of the natural person having the quality of trader or who acts on behalf of the company in formation, the necessary steps with public bodies and private bodies responsible for a public service mission. . It bears the mention: "Awaiting registration".

The conditions of application of this article are defined by decree in Council of State.

**Sub-section 3: Domiciliation of registered persons. (Articles L123-10 to L123-11-8)****Paragraph 1: Provisions applicable to natural persons (Article L123-10)**

Article L123-10

**Modified by Ordinance n°2021-1189 of September 15, 2021 - art. 2**

Individuals applying for registration in the trade and companies register or in the national register of companies as a business in the trades and crafts sector must declare the address of their business and justify the use of it. In particular, they may domicile their business in premises occupied jointly by several businesses under the conditions set by decree in the Conseil d'Etat. This decree also specifies the equipment or services required to justify the reality of the installation of the domiciled company.

Individuals may declare the address of their place of residence and carry out an activity there, provided that no legislative provision or contractual stipulation opposes this.

When they do not have an establishment, natural persons may, exclusively as the address of the company, declare that of their place of residence. This declaration does not entail any change in the use of the premises or application of the status of commercial leases.

*NOTA :*

*In accordance with Article 47 of Ordinance No. 2021-1189 of September 15, 2021, these provisions come into force on January 1, 2023*

**Paragraph 2: Provisions applicable to legal persons (Articles L123-11 to L123-11-1)**

Article L123-11

**Modified by Ordinance n°2009-104 of January 30, 2009 - art. 9**

Any legal entity applying for registration in the Trade and Companies Register must provide proof of use of the premises where it installs, alone or with others, the head office of the company, or, when it is located at the abroad, the agency, branch or representation established on French territory.

The domiciliation of a legal person in premises occupied jointly by several companies is authorized under conditions fixed by decree in Council of State. This decree also specifies the equipment or services required to justify the reality of the head office of the domiciled legal entity.

Article L123-11-1

**Modified by Law n°2005-882 of August 2, 2005 - art. 30 () JORF August 3, 2005**

Any legal entity is authorized to set up its head office at the domicile of its legal representative and carry out an activity there, unless there are legislative provisions or contractual stipulations to the contrary.

When the legal person is subject to the legislative provisions or contractual stipulations mentioned in the preceding paragraph, its legal representative may set up its headquarters at its domicile, for a period not exceeding five years from its creation. , nor exceed the legal, contractual or judicial term of the occupation of the premises.

In this case, it must, prior to filing its application for registration or modification of registration, notify in writing the lessor, the syndicate of co-ownership or the representative of the property complex of its intention to use the option so provided.

Before the expiry of the period mentioned in the second paragraph, the person must, under penalty of automatic expulsion, communicate to the court office the elements justifying his change of situation, according to the methods fixed by decree in Council of State.

It cannot result from the provisions of this article neither the change of destination of the building, nor the application of the statute of the commercial leases.

**Paragraph 3: Common Provisions. (Articles L123-11-2 to L123-11-8)**

Article L123-11-2

**Creation Ordinance n°2009-104 of January 30, 2009 - art. 9**

The domiciliation activity cannot be carried out in premises used as a main residence or with mixed professional use.

Article L123-11-3

**Modified by Ordinance n°2019-1015 of October 2, 2019 - art. 27****Amended by Ordinance No. 2016-301 of March 14, 2016 - art. 2 (V)**

I. — No one can exercise the activity of domiciliation if he is not approved beforehand by the administrative authority, before his registration in the register of commerce and companies.

II. — Approval is only issued to persons who meet the following conditions:

1° Justify the provision to persons domiciled of premises equipped with a room capable of ensuring the necessary confidentiality and allowing regular meetings of the bodies responsible for the management, administration or supervision of the company as well as the keeping, conservation and consultation of books, registers and documents prescribed by laws and regulations;

2° Justify being the owner of the premises made available to the person domiciled or the holder of a commercial lease of these premises;

3° Not having been the subject of a final conviction:

a) For a crime;

b) A sentence of at least three months' imprisonment without suspension for:

— one of the offenses provided for in Title I of Book III of the Penal Code and for offenses provided for by special laws and punishable by the penalties provided for fraud and breach of trust;

- concealment or one of the offenses assimilated to concealment or close to it, provided for in section 2 of chapter I of title II of book III of the penal code ;

- laundering;

— active or passive corruption, influence peddling, embezzlement and misappropriation of property;

— forgery, falsification of securities or other fiduciary values issued by the public authority, falsification of the marks of the authority;

- participation in a criminal association;

- drug trafficking;

— procuring or one of the offenses provided for in sections 2 and 2 bis of chapter V of title II of book II of the penal code ;

— one of the offenses provided for in section 3 of chapter V of title II of book II of the penal code ;

— one of the infringements of the legislation on commercial companies provided for in Title IV of Book II of this code;

- bankruptcy;

— practice of usurious lending;

— one of the offenses provided for in Articles L. 324-1 to L. 324-4, L. 324-10 and L. 324-12 to L. 324-14 of the Internal Security Code;

— violation of the legislation and regulations governing financial relations with foreign countries;

— tax evasion;

— one of the offenses provided for in Articles L. 453-10 , L. 431-2 , L. 453-1 , L. 453-2 , L. 453-3 , L. 453-9 , L. 431-7 , L. 453-6 , L. 432-6 , L. 433-9 , L. 453-8 , L. 132-2 , L. 132-3 , L. 222-6 , L. 132-13 , L. 132-14 , L. 132-15 , L. 224-100 , L. 112-1 , L. 112-5 , L. 112-6 , L. 112-7 , L. 131-5 , L. 131-6 , L. 451-9 , L. 451-10 , L. 413-4 , L. 413-5 , L. 422-3 , L. 413-6 , L. 451-11 , L. 413-7 , L. 451-12 , L. 413-8 , L. 451-13 , L. 413-9 , L. 451-14 , L. 512-4 of the consumer code ;

— one of the offenses provided for in Articles L. 8221-1 and L. 8221-3 of the Labor Code;

4° Not having been the perpetrator of acts giving rise, for less than five years, to a disciplinary or administrative sanction of withdrawal of the approval of the domiciliation activity;

5° Not to have been struck by personal bankruptcy or by one of the measures of prohibition or forfeiture provided for in Book VI of this code.

**NOTA :**

*In accordance with Article 50 of Ordinance No. 2019-1015 of October 2, 2019, these provisions come into force from January 1, 2020.*

**Article L123-11-4**

**Creation Ordinance n°2009-104 of January 30, 2009 - art. 9**

Approval is only issued to legal persons if the shareholders or partners holding at least 25% of the votes, shares or voting rights and the managers meet the conditions set out in 3°, 4° and 5° of the Article L.123-11-3 .

When a person operates one or more secondary establishments, he justifies that the conditions laid down in 1° and 2° of Article L. 123-11-3 have been met for each of the establishments operated.

Any significant change in the activity, installation, organization or management of the person subject to approval must be brought to the attention of the administrative authority.

**Article L123-11-5**

**Creation Ordinance n°2009-104 of January 30, 2009 - art. 9**

Persons carrying out the domiciliation activity implement the obligations relating to the fight against money laundering and the financing of terrorism defined in Chapter I of Title VI of Book V of the Monetary and Financial Code .

**Article L123-11-6**

**Amended by Ordinance No. 2017-303 of March 9, 2017 - art. 2**

I. - Are qualified to proceed, within the framework of their respective competences, to the research and the observation of the infringements to the provisions of the articles of the present sub-section and the regulations adopted for their application:

1° The agents mentioned in Article L. 243-7 of the Social Security Code;



2° Labor inspectors and labor controllers and assimilated control officials within the meaning of Article L. 8113-7 of the Labor Code ;

3° Agents of agricultural social mutual funds mentioned in article L. 724-7 of the rural and maritime fishing code.

To this end, they act, each as far as it is concerned, in accordance with the rules for researching and noting infringements determined by the provisions of the rural and maritime fishing code, the social security code and the labor code which apply to them. are applicable.

Offenses are recorded in reports which are authentic until proven otherwise and sent directly to the public prosecutor's office.

II. – Violations of the provisions of I of Article L. 123-11-3 are investigated, recorded and prosecuted by the agents mentioned in II of Article L. 450-1 under the conditions set out in Articles L. 450- 2 to L. 450-7 , L. 450-8 , L. 470-1 , L. 490-1 and L. 490-8 .

#### Article L123-11-7

**Creation Ordinance n°2009-104 of January 30, 2009 - art. 9**

The conditions of application of this paragraph are determined by decree in Council of State.

#### Item L123-11-8

**Creation Ordinance n°2009-104 of January 30, 2009 - art. 9**

Any person carrying out the domiciliation activity mentioned in Article L. 123-11-2 without having previously obtained authorization is punishable by six months' imprisonment and a fine of €7,500 approval provided for in Article L. 123-11-3 or after the withdrawal or suspension of this approval.

### **Section 2: Merchant accounting (Articles L123-12 to L123-28-2)**

#### **Sub-section 1: Accounting obligations applicable to all merchants. (Articles L123-12 to L123-24)**

##### Article L123-12

Any natural or legal person having the quality of trader must carry out the accounting registration of the movements affecting the assets of his company. These movements are recorded chronologically.

It must check by inventory, at least once every twelve months, the existence and value of the assets and liabilities of the company's assets.

It must draw up annual accounts at the end of the financial year on the basis of the accounting records and the inventory. These annual accounts include the balance sheet, the income statement and an appendix, which form an inseparable whole.

##### Article L123-13

**Modified by ORDER n°2015-900 of July 23, 2015 - art. 1**

The balance sheet describes the company's assets and liabilities separately, and shows shareholders' equity separately.

The income statement summarizes the income and expenses for the financial year, without taking into account their date of collection or payment. It shows by difference, after deduction of amortization, depreciation and provisions, the profit or loss for the financial year. Income and expenses, classified by category, must be presented either in the form of tables or in the form of a list.

The amount of the company's commitments in terms of pensions, supplementary pensions, indemnities and allowances due to the retirement or similar benefits of the members or associates of its staff and its corporate officers is indicated in the appendix. In addition, companies may decide to enter in the balance sheet, in the form of a provision, the amount corresponding to all or part of these commitments.

The appendix supplements and comments on the information provided by the balance sheet and the income statement.

##### Article L123-14

The annual accounts must be regular, sincere and give a faithful image of the assets, the financial situation and the results of the company.

When the application of an accounting requirement is not sufficient to give the faithful image mentioned in this article, additional information must be provided in the appendix.

If, in an exceptional case, the application of an accounting prescription proves to be unsuitable for giving a faithful image of the assets, the financial situation or the result, it must be waived. This derogation is mentioned in the appendix and duly substantiated, with an indication of its influence on the assets, the financial situation and the results of the company.

##### Article L123-15

**Modified by Ordinance n°2009-79 of January 22, 2009 - art. 5**

The balance sheet, the income statement and the appendix must include as many headings and items as necessary to give a faithful image of the company's assets, financial situation and results. Each of the items in the balance sheet and income statement includes the indication of the figure relating to the corresponding item for the

previous financial year.

The components of equity are set by decree. The classification of balance sheet and income statement items as well as the information to be included in the appendix are set by a regulation of the Accounting Standards Authority.

#### Article L123-16

**Modified by LAW n°2019-486 of May 22, 2019 - art. 47 (V)**

Small businesses may, under conditions set by a regulation of the Accounting Standards Authority, adopt a simplified presentation of their annual accounts.

Medium-sized companies may, under conditions set by a regulation of the Accounting Standards Authority, adopt a simplified presentation of their income statement.

Small businesses within the meaning of this article are traders, natural or legal persons, for whom, for the last closed financial year and on an annual basis, two of the following three thresholds, the level and methods of calculation of which are fixed by decree, are not exceeded: the balance sheet total, the net amount of turnover or the average number of employees employed during the financial year.

Medium-sized enterprises within the meaning of this article are traders, natural persons or legal persons, for which, for the last closed financial year and on an annual basis, two of the following three thresholds, the level and methods of calculation of which are fixed by decree, are not exceeded: the balance sheet total, the net amount of turnover or the average number of employees employed during the financial year.

When a company exceeds or ceases to exceed two of these three thresholds, this circumstance only has an impact if it occurs for two consecutive financial years.

#### NOTA :

*In accordance with IV of article 47 of law no. 2019-486 of May 22, 2019, these provisions apply to the accounts relating to the financial years ending on or after the publication of this law.*

#### Article L123-16-1

**Modified by Ordinance n°2014-86 of January 30, 2014 - art. 2**

By way of derogation from the provisions of the third paragraph of Article L. 123-12, micro-enterprises, with the exception of those whose activity consists in managing equity securities and transferable securities, are not required to draw up an appendix.

Micro-enterprises within the meaning of this article are traders, natural or legal persons, for whom, in respect of the last closed financial year and on an annual basis, two of the following three thresholds, the level and methods of calculation of which are fixed by decree, are not exceeded: the balance sheet total, the net amount of turnover or the average number of employees employed during the financial year.

When a company exceeds or ceases to exceed two of these three thresholds, this circumstance only has an impact if it occurs for two consecutive financial years.

#### NOTA :

*In accordance with Article 6 of Ordinance No. 2014-86 of January 30, 2014, these provisions apply to accounts relating to fiscal years ending on or after December 31, 2013 and filed on or after April 1, 2014. For accounts filed in 2014, the provisions of the third paragraph of articles L. 123-16 and L. 123-16-1 of the commercial code are not applied in their wording resulting from this order.*

#### Article L123-16-2

**Amended by LAW n°2021-875 of July 1, 2021 - art. 9**

The provisions of Articles L. 123-16 and L. 123-16-1 do not apply:

1° To the credit institutions and finance companies mentioned in Article L. 511-1 of the Monetary and Financial Code and to the payment institutions and electronic money institutions mentioned in Article L. 521-1 of the same code;

2° To the insurance and reinsurance companies mentioned in Articles L. 310-1 and L. 310-1-1 of the Insurance Code, to the supplementary occupational pension funds mentioned in Article L. 381-1 of the same code, institutions for supplementary occupational pensions mentioned in article L. 942-1 of the social security code, mutual insurance companies or unions mentioned in article L. 214-1 of the mutual insurance code, social security organizations mentioned in article L. 114-8 of the Social Security Code, to provident institutions and their unions governed by Title III of Book IX of the Social Security Code and to mutual insurance companies and unions of mutual insurance companies governed by Book II of the Mutual Insurance Code;

3° To persons and entities whose financial securities are admitted to trading on a regulated market;

4° To persons and entities who appeal to the generosity of the public within the meaning of law n° 91-772 of August 7, 1991 relating to representation leave in favor of associations and mutual insurance companies and the control of the accounts of organizations appealing to public generosity.

**Article L123-17****Modified by ORDER n°2015-900 of July 23, 2015 - art. 1**

Except in exceptional cases, in order to give a faithful image of the assets, the financial situation and the results of the company and under the conditions provided for by a regulation of the Accounting Standards Authority, the accounting methods used and the structure of the balance sheet and income statement cannot be changed from one financial year to another. If changes occur, they are described and justified in the appendix and reported, where applicable, in the auditors' report.

**Article L123-18**

On their date of entry into the company's assets, goods acquired for consideration are recorded at their acquisition cost, goods acquired free of charge at their market value and goods produced at their production cost.

For fixed assets, the values retained in the inventory must, where applicable, take account of the depreciation schedules. If the value of an item of assets falls below its net book value, the latter is reduced to the inventory value at the end of the financial year, whether the depreciation is definitive or not.

Fungible assets are valued either at their weighted average cost of acquisition or production, or by considering that the first asset out is the first asset in.

The capital gain observed between the inventory value of an asset and its entry value is not recognised. If all tangible and financial fixed assets are revalued, the revaluation difference between the current value and the net book value cannot be used to offset losses; it is recorded separately as a liability on the balance sheet.

**Article L123-19****Modified by ORDER n°2015-900 of July 23, 2015 - art. 1**

Assets and liabilities should be valued separately.

No compensation can be made between the assets and liabilities items of the balance sheet or between the income and expense items of the income statement, except in exceptional cases provided for by a regulation of the Accounting Standards Authority.

The opening balance sheet for a financial year must correspond to the closing balance sheet for the previous financial year.

**Article L123-20****Modified by ORDER n°2015-900 of July 23, 2015 - art. 1**

The annual accounts must comply with the principle of prudence. For their establishment, the merchant, natural or legal person, is presumed to continue his activities.

Even in the event of absence or insufficiency of profit, the necessary amortizations, depreciations and provisions must be made.

Account must be taken of liabilities which have arisen during the financial year or a previous financial year, even if they are known between the date of the end of the financial year and that of the preparation of the accounts.

**Article L123-21**

Only the profits made on the closing date of a financial year can be entered in the annual accounts. May be entered, after inventory, the profit made on an operation partially executed and accepted by the co-contracting party when its realization is certain and it is possible, by means of provisional accounting documents, to evaluate with sufficient certainty the overall profit of the operation.

**Article L123-22****Modified by Law n°2003-7 of January 3, 2003 - art. 50 (V) JORF January 4, 2003**

The accounting documents are drawn up in euros and in French.

Accounting documents and supporting documents are kept for ten years.

The accounting documents relating to the recording of operations and the inventory are drawn up and kept without blanks or alterations of any kind, under conditions set by decree in Council of State.

**Article L123-23**

The accounts regularly kept can be admitted in court to prove between merchants for acts of commerce.

If it has been irregularly kept, it cannot be invoked by its author for his benefit.

The communication of accounting documents can only be ordered in court in matters of succession, community, division of a company and in the event of receivership or judicial liquidation.

**Article L123-24****Modified by Law n°2003-7 of January 3, 2003 - art. 50 (V) JORF January 4, 2003**

All merchants are required to have an account opened in a credit institution or in a postal check office.

**Sub-section 2: Accounting obligations applicable to certain merchants. (Items L123-25 to L123-28-2)****Article L123-25****Modified by Ordinance n°2014-86 of January 30, 2014 - art. 4**

By way of derogation from the provisions of the first and third paragraphs of Article L. 123-12, natural persons placed optionally or by operation of law under the simplified real tax regime may only record receivables and debts at the end of the financial year and not to draw up an appendix.

Legal persons having the quality of trader and placed on option or by operation of law under the simplified tax regime may present an abbreviated appendix drawn up according to a model set by a regulation of the Accounting Standards Authority.

By way of derogation from the provisions of the first paragraph of Article L. 123-12, these same persons, with the exception of those controlled by a company which draws up accounts pursuant to Article L. 233-16, may record their receivables and their debts at the end of the financial year.

**NOTA :**

*In accordance with Article 6 of Ordinance No. 2014-86 of January 30, 2014, these provisions apply to accounts relating to fiscal years ending on or after December 31, 2013 and filed on or after April 1, 2014. For accounts filed in 2014, the provisions of the third paragraph of articles L. 123-16 and L. 123-16-1 of the commercial code are not applied in their wording resulting from this order.*

**Article L123-26**

By way of derogation from the provisions of the second paragraph of Article L. 123-13, natural persons placed optionally or automatically under the simplified real tax regime may enter in the income statement, depending on their date of payment, charges whose periodicity does not exceed one year, excluding purchases.

**Article L123-27****Modified by Ordinance n°2009-79 of January 22, 2009 - art. 5**

By way of derogation from the provisions of the third paragraph of Article L. 123-18, natural persons placed optionally or by operation of law under the real simplified tax system may carry out a simplified valuation of stocks and production in progress, according to a method set by regulation of the Accounting Standards Authority.

**Article L123-28****Amended by LAW n°2008-776 of August 4, 2008 - art. 9**

Notwithstanding the provisions of Articles L. 123-12 to L. 123-23, natural persons benefiting from the regime defined in Article 50-0 of the General Tax Code may not prepare annual accounts. They keep a book listing chronologically the amount and origin of the receipts they receive for their professional activity. They also keep, when their main business is to sell goods, objects, supplies and foodstuffs to take away or consume on the spot, or to provide accommodation, a register summarized by year, presenting the details of their purchases. A decree sets the conditions under which this book and this register are kept.

**Article L123-28-1****Creation LAW n° 2015-990 of August 6, 2015 - art. 203 (V)**

By way of derogation from Articles L. 123-12 to L. 123-23, the natural persons mentioned in the second paragraph of Article L. 123-16-1 may not draw up a balance sheet and income statement when they do not employ no employees and that they have registered a total and temporary cessation of activity in the trade and companies register. The derogation is no longer applicable in the event of resumption of activity and at the latest at the end of the second financial year following the date of registration. The derogation does not apply when operations modify the structure of the balance sheet during the financial year in question. The terms of application of this article are set by decree.

**Article L123-28-2****Creation LAW n° 2015-990 of August 6, 2015 - art. 203 (V)**

By way of derogation from Articles L. 123-12 to L. 123-23, the legal persons mentioned in the second paragraph of Article L. 123-16-1 may draw up an abbreviated balance sheet and an abbreviated income statement when they do not employ no employees and that they have registered a total and temporary cessation of activity in the trade and companies register. The derogation is no longer applicable in the event of resumption of activity and at the latest at the end of the second financial year following the date of registration. The derogation does not apply when operations modify the structure of the balance sheet during the financial year in question. The terms of application of this article are set by decree.

**Section 3: Itinerant commercial and artisanal activities (Articles L123-29 to L123-31)****Article L123-29****Modified by LAW n°2017-86 of January 27, 2017 - art. 193**

Any natural or legal person must, in order to carry out or have carried out by his spouse or his servants, an itinerant commercial or craft activity outside the territory of the municipality where his residence or main establishment is located, make a prior declaration to the authority. competent to issue the card mentioned in the fourth paragraph.

The same applies to any person without a stable home intending to carry out or have carried out by his spouse or his employees an itinerant commercial or artisanal activity.

The declaration mentioned in the first paragraph is renewable periodically.

This declaration gives rise to the issuance of a card allowing the exercise of an itinerant activity.

**Article L123-30****Creation LAW n°2008-776 of August 4, 2008 - art. 53**

In addition to the officers and agents of the judicial police, the following are competent to record in the minutes the contraventions provided for by the decree mentioned in article L. 123-31:

1° The assistant judicial police officers mentioned in 2° of Article 21 of the Code of Criminal Procedure ;

2° The civil servants in charge of the control of the markets and halls located on the territory of the municipality on which the merchant or the itinerant craftsman exercises his commercial or artisanal activity, authorized for this purpose.

**Article L123-31****Creation LAW n°2008-776 of August 4, 2008 - art. 53**

The terms of application of this section are set by decree in Council of State, in particular the conditions of authorization of the agents mentioned in 2° of article L. 123-30 and the terms of exercise of their competence.

**Section 4: Business administrative formalities (Articles L123-32 to L123-35)****Article L123-32****Creation LAW n°2019-486 of May 22, 2019 - art. 1 (V)**

This section is applicable to the relations between, on the one hand, the companies and, on the other hand, the administrations of the State, the public establishments of the State of an administrative nature, the territorial collectivities, their groupings and their establishments. of an administrative nature, private persons in charge of an administrative public service, organizations managing social protection schemes covered by the Social Security Code and the Rural and Maritime Fisheries Code or mentioned in Articles L. 3141-32 and L. 5427-1 of the Labor Code and the bodies responsible for keeping a register of legal publicity, including the registries.

However, it is not applicable to relations between companies and professional orders, except when the third paragraph of article L. 123-33 of this code is applied.

**NOTA :**

*In accordance with VIII of Article 1 of Law No. 2019-486 of May 22, 2019, these provisions come into force on a date set by decree in the Council of State, and no later than January 1, 2023. This decree defines the transitional arrangements implemented as of the establishment of the organization provided for in the second paragraph of Article L. 123-33 of the Commercial Code, which occurs no later than January 1, 2021. Decree No. 2021 -300 of March 18, 2021 sets the effective date as January 1, 2023.*

**Article L123-33****Creation LAW n°2019-486 of May 22, 2019 - art. 1 (V)**

With the exception of the procedures and formalities necessary for access to regulated activities and for the exercise of these, all companies comply with the obligation to declare their creation, the modification of their situation or the cessation of their activities. with an administration, person or body mentioned in Article L. 123-32 by filing a single file containing the declarations that it is required to make.

This file is filed electronically with a single organization designated for this purpose. This filing is equivalent to a

declaration to the recipient when the file is regular and complete with regard to the latter.

Any service provider falling within the scope of Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market may carry out electronically all the procedures and formalities necessary to access to his activity and the exercise thereof with the single body mentioned in the second paragraph of this article.

A Conseil d'Etat decree designates the single body mentioned in the same second paragraph, defines the conditions for filing the file as well as the methods of support and assistance for companies by the consular bodies and by the single body, specifies the procedures for verifying the file and describes the conditions for transmitting the information collected by this single organization to the administrations, persons or organizations mentioned in Article L. 123-32 as well as the conditions for applying the third paragraph of this article . It also specifies the conditions under which the user creating his business through the

**NOTA :**

*In accordance with VIII of Article 1 of Law No. 2019-486 of May 22, 2019, these provisions come into force on a date set by decree in the Council of State, and no later than January 1, 2023. This decree defines the transitional arrangements implemented as of the establishment of the organization provided for in the second paragraph of Article L. 123-33 of the Commercial Code, which occurs no later than January 1, 2021. Decree No. 2021 -300 of March 18, 2021 sets the effective date as January 1, 2023.*

**Article L123-34**

**Creation LAW n°2019-486 of May 22, 2019 - art. 1 (V)**

In its relations with the administrations, persons or bodies mentioned in Article L. 123-32 , a company cannot be required to indicate an identification number other than the unique number assigned under the conditions set by decree. A specific identifier may be used additionally, in particular for certain activities subject to prior declaration or authorization, under conditions set by decree.

The company cannot be required to mention another number in its business papers such as invoices, order notes, tariffs, advertising documents, correspondence and receipts concerning its activities.

**NOTA :**

*In accordance with VIII of Article 1 of Law No. 2019-486 of May 22, 2019, these provisions come into force on a date set by decree in the Council of State, and no later than January 1, 2023. This decree defines the transitional arrangements implemented as of the establishment of the organization provided for in the second paragraph of Article L. 123-33 of the Commercial Code, which occurs no later than January 1, 2021. Decree No. 2021 -300 of March 18, 2021 sets the effective date as January 1, 2023.*

**Article L123-35**

**Creation LAW n°2019-486 of May 22, 2019 - art. 1 (V)**

When they are transmitted electronically, the accounting documents are filed according to the procedures set by decree in the Conseil d'Etat.

**NOTA :**

*In accordance with VIII of Article 1 of Law No. 2019-486 of May 22, 2019, these provisions come into force on a date set by decree in the Council of State, and no later than January 1, 2023. This decree defines the transitional arrangements implemented as of the establishment of the organization provided for in the second paragraph of Article L. 123-33 of the Commercial Code, which occurs no later than January 1, 2021. Decree No. 2021 -300 of March 18, 2021 sets the effective date as January 1, 2023.*

**Section 5: National business register (Articles L123-36 to L123-57)**

**Sub-section 1: Companies required to register (Articles L123-36 to L123-38)**

**Article L123-36**

**Creation Ordinance n°2021-1189 of September 15, 2021 - art. 2**

A national register of companies is kept, in which companies carrying out a commercial, artisanal, agricultural or independent activity on French territory are registered.

The following are thus registered, on their declarations:

1° The persons mentioned in 1° to 6° of I of Article L. 123-1 ;

2° The commercial agents mentioned in Article L. 134-1 ;

3° Persons in the trades and crafts sector mentioned in Article 19 of Law No. 96-603 of 5 July 1996 on the development and promotion of trade and crafts;

4° Persons carrying out an agricultural activity within the meaning of article L. 311-1 of the rural and maritime

fishing code ;

5° Natural persons, other than those mentioned in 1° to 4° above, established in France and exercising a regular and professional economic activity, including a liberal activity subject to a legislative or regulatory status or whose title is protected ;

6° Foreign companies without a permanent establishment in France.

*NOTA :*

*In accordance with Article 47 of Ordinance No. 2021-1189 of September 15, 2021, these provisions come into force on January 1, 2023.*

#### Article L123-37

#### Creation Ordinance n°2021-1189 of September 15, 2021 - art. 2

Are subject to registration in the national register of companies, or to a deposit to be attached thereto:

1° For the persons mentioned in 1° of Article L. 123-36 , all information, acts and documents appearing in the Trade and Companies Register pursuant to II of Article L. 123-1 and any specific legislative or regulatory provision;

2° For the natural persons mentioned in 2° of Article L. 123-36, all the information and documents appearing in the special register of commercial agents;

3° For the companies mentioned in articles L. 232-21 to L. 232-23, the accounting documents mentioned in these same articles and in articles L.L.232-26 ;

4° For the companies and entities mentioned in 1° of Article L. 561-45-1 of the Monetary and Financial Code , the information relating to the beneficial owners defined in Article L. 561-46 of the same code;

5° For the natural persons mentioned in 1° to 5° of Article L. 123-36, information relating to the existence, where applicable, of a declaration of exemption from seizure of the rights of the natural person registered on any property not assigned to its professional use, provided for in Article L. 526-1, of a waiver of such unseizability or of the unseizability of rights to the main residence of the registered natural person, provided for in article L. 526-3, or of a revocation of such waiver, provided for in same item;

6° For the natural persons mentioned in 1° to 5° of Article L. 123-36 who have chosen to practice under the regime of the individual entrepreneur with limited liability defined in Article L. 526-6 , the information and documents relating to this scheme mentioned in Articles L. 526-7 to L. 526-11 and L. 526-14 to L. 526-17.

A Conseil d'Etat decree specifies the information and documents that must be registered or filed, according to the categories of companies mentioned in 1° to 6° of Article L. 123-36 .

*NOTA :*

*In accordance with Article 47 of Ordinance No. 2021-1189 of September 15, 2021, these provisions come into force on January 1, 2023.*

#### Article L123-38

#### Creation Ordinance n°2021-1189 of September 15, 2021 - art. 2

The fact of giving, in bad faith, inaccurate or incomplete information with a view to registration, a change in his situation or the removal from the national register of companies of a person mentioned in 2° to 6° of the Article L. 123-36 is punishable by a fine of 4,500 euros and imprisonment for six months.

*NOTA :*

*In accordance with Article 47 of Ordinance No. 2021-1189 of September 15, 2021, these provisions come into force on January 1, 2023.*

### Sub-section 2: Validation of data present in the national business register and checks carried out by certain authorities (Articles L123-39 to L123-49)

#### Paragraph 1: Common provisions (Articles L123-39 to L123-40)

##### Article L123-39

##### Creation Ordinance n°2021-1189 of September 15, 2021 - art. 2

A Conseil d'Etat decree determines the list of the information declared and the documents transmitted by the person required to register which are registered and deposited in the national register of companies after validation by the authorities mentioned in this sub-section.

*NOTA :*



*In accordance with Article 47 of Ordinance No. 2021-1189 of September 15, 2021, these provisions come into force on January 1, 2023.*

**Article L123-40****Creation Ordinance n°2021-1189 of September 15, 2021 - art. 2**

The authorities mentioned in this sub-section check that the companies falling within their field of competence meet the conditions necessary for access to their activity or the exercise of it. The nature and scope of this control are specified, for each authority, in this sub-section.

*NOTA :*

*In accordance with Article 47 of Ordinance No. 2021-1189 of September 15, 2021, these provisions come into force on January 1, 2023.*

**Paragraph 2: Validation and checks carried out by the clerks of the commercial courts or the judicial courts ruling in commercial matters (Articles L123-41 to L123-42)****Article L123-41****Creation Ordinance n°2021-1189 of September 15, 2021 - art. 2**

The registrations of information and the filing of documents in the national register of companies are validated by the clerk of the commercial court or the judicial court ruling in commercial matters competent for the natural persons and the legal persons mentioned in 1° and 2° of I. Article L. 123-36 as well as for the natural persons mentioned in 4° and 5° of the same article who have chosen to exercise their activity under the regime of the individual entrepreneur with limited liability.

*NOTA :*

*In accordance with Article 47 of Ordinance No. 2021-1189 of September 15, 2021, these provisions come into force on January 1, 2023.*

**Article L123-42****Creation Ordinance n°2021-1189 of September 15, 2021 - art. 2**

The decision to register information or the acknowledgment of the filing of a document in the commercial and companies register, in the special register of commercial agents or in the special register of sole proprietorships with limited liability by the clerk of the commercial court or of the judicial court ruling in commercial matters, after carrying out the checks incumbent on it in these matters, entails validation of the registration of this information or the filing of this document with the national business register.

*NOTA :*

*In accordance with Article 47 of Ordinance No. 2021-1189 of September 15, 2021, these provisions come into force on January 1, 2023.*

**Paragraph 3: Validation and checks carried out by the presidents of the chambers of trades and crafts (Articles L123-43 to L123-47)****Article L123-43****Creation Ordinance n°2021-1189 of September 15, 2021 - art. 2**

The registrations of information and the filing of documents in the national register of companies are validated, for the natural persons mentioned in 3° of article L. 123-36 , by the president of the chamber of trades and crafts of region or, by delegation, the president of the competent departmental chamber of trades and crafts.

*NOTA :*

*In accordance with Article 47 of Ordinance No. 2021-1189 of September 15, 2021, these provisions come into force on January 1, 2023.*

**Article L123-44****Creation Ordinance n°2021-1189 of September 15, 2021 - art. 2**

The president of the regional chamber of trades and crafts or, by delegation, the president of the chamber of trades and crafts at departmental level checks that the natural persons mentioned in 3° of article L. 123 -36 and the corporate officers of the legal persons mentioned in 3° of the same article are not subject to the prohibition provided for in article L. 653-8 or the additional penalty of prohibition to exercise a professional or social activity for crime or misdemeanor provided for in 11° of article 131-6 of the penal code. These prohibitions and penalties preclude the registration of the persons concerned in the national register of companies and are likely to lead, if they are already registered there, to their automatic removal.

For the purpose of carrying out this control, the personnel of the competent chambers of trades and crafts, individually designated and specially authorized by the president of the chamber of trades and crafts to which they belong, may request communication from the National Council of clerks of the commercial courts of the information and personal data recorded in the national automated file of prohibitions to manage pursuant to Article L. 128-2 , in order to be aware of a possible prohibition.



*NOTA :*

*In accordance with Article 47 of Ordinance No. 2021-1189 of September 15, 2021, these provisions come into force on January 1, 2023.*

#### Article L123-45

#### Creation Ordinance n°2021-1189 of September 15, 2021 - art. 2

The president of the regional chamber of trades and crafts or, by delegation, the president of the chamber of trades and crafts at departmental level controls compliance, by the natural persons and legal persons mentioned in 3° of Article L. 123-36 :

1° The conditions provided for by I and IV of Article 19 of Law No. 96-603 of July 5, 1996 relating to the development and promotion of trade and arts and crafts ;

2° Where applicable, the obligation of professional qualification of persons carrying out certain activities listed in article 16 of the aforementioned law n° 96-603 of July 5, 1996 .

When the qualification required for the exercise of the activities mentioned in 2° is held by an employee of the company, the latter sends from its registration or its change of situation the required documents attesting to this qualification, within a period of the duration is determined by decree in Council of State. Failure to submit these documents within the required period results in the removal of the company from the register, except for the latter to modify its activity.

*NOTA :*

*In accordance with Article 47 of Ordinance No. 2021-1189 of September 15, 2021, these provisions come into force on January 1, 2023.*

#### Article L123-46

#### Creation Ordinance n°2021-1189 of September 15, 2021 - art. 2

The person who has fully satisfied the validations and checks carried out pursuant to Articles L. 123-43 to L. 123-45 is registered in the national register of companies with the mention "company in the trades and crafts sector" without this does not exempt it, where applicable, from registration in the trade and companies register.

The quality of craftsman, craftsman, master or master craftsman within the meaning of article 21 of law n° 96-603 of the July 5, 1996 recognized or attributed to the following persons:

1° The natural persons mentioned in 3° of Article L. 123-36 and their collaborating spouse, where applicable;

2° The corporate officers of the legal persons mentioned in 3° of Article L. 123-36, their collaborating spouses and their partner spouses, where applicable;

3° Partners taking part personally and usually in the activity of the legal persons mentioned in 3° of Article L. 123-36.

*NOTA :*

*In accordance with Article 47 of Ordinance No. 2021-1189 of September 15, 2021, these provisions come into force on January 1, 2023.*

#### Article L123-47

#### Creation Ordinance n°2021-1189 of September 15, 2021 - art. 2

Natural persons and legal persons whose activity consists of the manufacture of dishes to be consumed on the spot may apply when registering to be registered as a business in the trades and crafts sector. In this case, the validations and controls provided for in Articles L. 123-43 to L. 123-45 are carried out and the company, if it satisfies them, comes under the trades and crafts sector in application of the first paragraph. of I of article 19 of law n° 96-603 of July 5, 1996 relating to the development and promotion of trade and crafts.

The natural persons and the legal persons mentioned in the third paragraph of I of article 19 of the aforementioned law n° 96-603 of July 5, 1996 may request to no longer be registered as a business in the trades and 'arts and crafts. In this case, they cease to be subject to the validations and controls provided for in Articles L. 123-43 to L. 123-45.

The natural persons and the legal persons mentioned in the fourth paragraph of I of article 19 of the aforementioned law n° 96-603 of July 5, 1996 may apply to be registered as a business in the trades and crafts sector. . In this case, they are subject to the validations and controls provided for in Articles L. 123-43 to L. 123-45.

*NOTA :*

*In accordance with Article 47 of Ordinance No. 2021-1189 of September 15, 2021, these provisions come into force on January 1, 2023.*

**Paragraph 4: Validation and checks carried out by the departmental or multi-departmental agricultural social mutual funds (Articles L123-48 to L123-49)**

Article L123-48

**Creation Ordinance n°2021-1189 of September 15, 2021 - art. 2**

The registrations of information and the filing of documents in the national register of companies requested on the occasion of applications for registration, amending registrations and cancellations, are validated, for the natural persons mentioned in Article L. 311- 2 of the rural and maritime fishing code , by the competent departmental or multi-departmental agricultural social mutual fund.

*NOTA :*

*In accordance with Article 47 of Ordinance No. 2021-1189 of September 15, 2021, these provisions come into force on January 1, 2023.*

Article L123-49

**Creation Ordinance n°2021-1189 of September 15, 2021 - art. 2**

The person who has fully satisfied the validations and checks carried out pursuant to Article L. 123-48 is registered in the national register of companies with the mention "company run by an agricultural worker" without this exempting him, if necessary. , registration in the trade and companies register.

The information that a natural person, registered in the national business register, as an individual entrepreneur or as a manager or partner of a legal person, has the status of agricultural asset within the meaning of Article L. 311 -2 of the rural code and maritime fishing , is registered in the form of a mention "active agricultural

*NOTA :*

*In accordance with Article 47 of Ordinance No. 2021-1189 of September 15, 2021, these provisions come into force on January 1, 2023.*

**Sub-section 3: Keeping the national business register (Articles L123-50 to L123-53)**

Article L123-50

**Creation Ordinance n°2021-1189 of September 15, 2021 - art. 2**

The National Business Register is maintained by the National Institute of Industrial Property.

The registration of information or the filing of documents appended to the national business register mentioned in Article L. 123-37 are carried out through the single body mentioned in Article L. 123-33 and in the conditions provided for in this same article, on the occasion:

1° Either of a declaration or a deposit emanating from the person required to register or from a legally or judicially authorized third party, if necessary after validation by the authorities mentioned in subsection 2;

2° Or the transmission of information or documents by the authorities mentioned in sub-section 2 of this section or designated by specific legislative or regulatory provisions, acting ex officio or at the request of third parties.

*NOTA :*

*In accordance with Article 47 of Ordinance No. 2021-1189 of September 15, 2021, these provisions come into force on January 1, 2023.*

Article L123-51

**Creation Ordinance n°2021-1189 of September 15, 2021 - art. 2**

The constitution of the national business register is carried out in digital format. It includes the digital files of the registered companies and, within each file, all the information and documents that have been registered or filed, as well as the dates of these events.

The supporting documents transmitted in digital form in support of the declarations and deposits are kept by the keeper of the register.

*NOTA :*

*In accordance with Article 47 of Ordinance No. 2021-1189 of September 15, 2021, these provisions come into force on January 1, 2023.*

Article L123-52

**Creation Ordinance n°2021-1189 of September 15, 2021 - art. 2**

All of the information entered and documents annexed to the national business register, with the exception of accounting documents covered by a declaration of confidentiality, are made available to the public free of charge

and in electronic form, at for consultation or reuse.

The provision of the information entered relating to the identity and domicile of the natural persons mentioned in the register is limited to the name, username, pseudonym, first names, month, year of birth and municipality of residence.

As an exception to the previous paragraph, all of the information is made available to the authorities, administrations, legal entities and professions, the list of which is determined by decree in Council of State.

*NOTA :*

*In accordance with Article 47 of Ordinance No. 2021-1189 of September 15, 2021, these provisions come into force on January 1, 2023.*

#### Article L123-53

#### Creation Ordinance n°2021-1189 of September 15, 2021 - art. 2

Have unrestricted access to all the information and annexed documents contained in the register, as well as to the supporting documents kept:

1° Persons registered for the data concerning them;

2° The following authorities within the framework of their mission:

a) The judicial authorities;

b) The national financial intelligence unit mentioned in Article L. 561-23 of the Monetary and Financial Code ;

c) The agents of the customs administration acting on the basis of the prerogatives conferred by the customs code ;

d) Authorized officials of the public finance administration responsible for tax control and recovery;

e) Authorized officers of the judicial police of the national police and the national gendarmerie, as well as customs officers and tax services authorized to carry out judicial investigations pursuant to Articles 28-1 and 28-2 of the Code of Criminal Procedure ;

f) The authorities mentioned in sub-section 2 of this section, for the companies falling within their scope of competence and with the exception of the annexed documents covered by a declaration of confidentiality.

*NOTA :*

*In accordance with Article 47 of Ordinance No. 2021-1189 of September 15, 2021, these provisions come into force on January 1, 2023.*

#### Sub-section 4: General provisions (Articles L123-54 to L123-57)

#### Article L123-54

#### Creation Ordinance n°2021-1189 of September 15, 2021 - art. 2

I.-The registration of information or the filing of documents in the national business register is subject to the payment of duties.

II.-The persons mentioned in 1° of Article L. 123-36 pay a fee, the scale of which is determined by decree, up to a limit of €10, for additional and amending registrations, the filing of annual accounts, filing of amending documents.

The amount of duties paid is allocated to the keeper of the national business register and collected by the single body mentioned in Article L. 123-33 under the conditions provided for by decree in the Conseil d'Etat. Its payment is due at the same time as the filing of the requested formality.

III.-The persons mentioned in 3° of Article L. 123-36 pay a fee, the scale of which is determined by decree:

1° Within the limit of €45 for registration formalities in the national register businesses as businesses in the trades and crafts sector;

2° Within the limit of €40 for requests for additional and amending entries in the register. This right is due regardless of the number of modifications requested at the same time;

3° Within the limit of €6.50 for the filing of deeds with the national register of companies which are carried out independently of a registration application or a request for amending registrations.

The amount of duties paid is allocated to the competent regional chamber of trades and crafts and recovered by the single organization mentioned in Article L. 123-33 under the conditions provided for by decree in Council of State. Its payment is due at the same time as the filing of the requested formality.

IV.-The limits mentioned in 1° and 2° of III are set respectively at 15 euros and 14 euros for the persons mentioned in 3° of Article L. 123-36 who are registered or in the process of being registered in the register trade and societies. These people are exempted from paying the fees provided for in 3° of the same III.

V.- Are exempted from the payment of the duties provided for in II and III of this article the natural persons who benefit from the regime provided for in article L. 613-7 of the Social Security Code as well as legal persons whose manager benefits from this scheme.

VI.-The provisions of III, IV and V are applicable to the formalities for the filing and transfer of declarations and the registration of particulars indicated in Article L. 526-19 of the Commercial Code which are completed with the national register of businesses.

VII.- Subject to the procedures defined by this article, the rights recovered by the single body mentioned in Article L. 123-33 are collected according to the same procedures and under the same sanctions, guarantees, sureties and privileges as the Recording rights. Claims are presented, investigated and judged according to the rules applicable to these same rights.

*NOTA :*

*In accordance with Article 47 of Ordinance No. 2021-1189 of September 15, 2021, these provisions come into force on January 1, 2023.*

Article L123-55

**Creation Ordinance n°2021-1189 of September 15, 2021 - art. 2**

When the challenge to the decision relating to the registration of information or the filing of documents in the national business register relates to the validation or control of an authority mentioned in sub-section 2 of this section, only the decision of this authority is subject to challenge before the competent court to hear these disputes. The decision of the competent court is automatically enforceable against the keeper of the national business register.

*NOTA :*

*In accordance with Article 47 of Ordinance No. 2021-1189 of September 15, 2021, these provisions come into force on January 1, 2023.*

Article L123-56

**Creation Ordinance n°2021-1189 of September 15, 2021 - art. 2**

For the application of this section in the departments of Bas-Rhin, Haut-Rhin and Moselle, the powers devolved to the presidents and staff of the regional chambers of trade and crafts are exercised by the president and the staff of the chambers of trade governed by articles 103 and following of the local professional code of July 26, 1900 for Alsace and Moselle.

For the application of this section in the departments and regions of Guadeloupe and Reunion and in the local authorities of Guyana and Martinique, the attributions devolved to the departmental or multi-departmental funds of agricultural social mutuality are exercised by the general funds of social security mentioned in article L..

*NOTA :*

*In accordance with Article 47 of Ordinance No. 2021-1189 of September 15, 2021, these provisions come into force on January 1, 2023.*

Article L123-57

**Creation Ordinance n°2021-1189 of September 15, 2021 - art. 2**

The terms of application of this section are determined by decree in Council of State.

*NOTA :*

*In accordance with Article 47 of Ordinance No. 2021-1189 of September 15, 2021, these provisions come into force on January 1, 2023.*

#### **Chapter IV: Cooperative societies of retail traders. (Articles L124-1 to L124-16)**

Article L124-1

**Modified by LAW n°2019-744 of July 19, 2019 - art. 2**

The purpose of cooperative societies of retail traders is to improve, through the joint effort of their associates, the conditions under which they exercise their commercial activity. To this end, they may, in particular, directly or indirectly carry out the following activities on behalf of their partners:

1° To supply, in whole or in part, to their associates the goods, foodstuffs or services, equipment and materials necessary for the exercise of their trade, in particular by the constitution and maintenance of any stock of goods, the construction, the acquisition or rental as well as the management of private stores and warehouses, the performance in

their establishments or in those of their associates of all useful operations, transformations and modernization;

2° Bring together in the same enclosure the businesses belonging to their partners, create and manage all services common to the operation of these businesses, build, acquire or rent the buildings necessary for their activity or that of the partners, and ensure their management , all under the conditions provided for in Chapter V of this title;

3° Within the framework of the legislative provisions concerning financial activities, facilitate access for partners and their customers to various means of financing and credit;

3° bis Organize financial cooperation between the partners, in particular through the constitution of companies, exercising under their direct or indirect control and having the purpose of providing by all means support for the purchase, creation and development of the commerce, in compliance with the provisions specific to credit institutions. The capital of the companies thus constituted must be majority held by the cooperatives and cooperative members; the non-cooperating partners may under no circumstances together hold more than 35% of the total voting rights. When the share of capital held by the non-cooperative partners exceeds this limit, the number of voting rights is reduced in due proportion;

4° Exercer les activités complémentaires à celles énoncées ci-dessus, et notamment fournir à leurs associés une assistance en matière de gestion technique, financière et comptable ;

5° Acheter des fonds de commerce dont la location-gérance est concédée dans un délai de deux mois à un associé et qui doivent être rétrocédés dans un délai maximal de sept ans. Le défaut de rétrocession dans ce délai peut donner lieu à injonction suivant les modalités définies au second alinéa de l'article L. 124-15 ;

6° Définir et mettre en œuvre par tous moyens une politique commerciale commune propre à assurer le développement et l'activité de ses associés, notamment :

- par la mise en place d'une organisation juridique appropriée ;
- par la mise à disposition d'enseignes ou de marques dont elles ont la propriété ou la jouissance ;
- par la réalisation d'opérations commerciales publicitaires ou non pouvant comporter des prix communs ;
- par l'élaboration de méthodes et de modèles communs d'achat, d'assortiment et de présentation de produits, d'architecture et d'organisation des commerces ;
- par l'élaboration et la gestion d'une plate-forme de vente en ligne ;

7° Prendre des participations même majoritaires dans des sociétés directement ou indirectement associées exploitant des fonds de commerce.

#### Article L124-1-1

**Création LOI n°2014-856 du 31 juillet 2014 - art. 37**

Nulle répartition ne peut être opérée entre les associés coopérateurs si ce n'est au prorata des opérations traitées avec chacun d'eux ou réalisées par la coopérative dans un rôle d'intermédiaire entre ces associés et des tiers.

#### Article L124-2

**Modifié par LOI n°2014-856 du 31 juillet 2014 - art. 38**

Les sociétés coopératives de pharmaciens d'officine ne peuvent refuser leurs services en cas d'urgence, aux pharmaciens d'officine non associés et à tous les établissements publics ou privés où sont traités les malades, lorsque ces établissements sont régulièrement propriétaires d'une officine.

#### Article L124-3

**Modifié par LOI n°2014-856 du 31 juillet 2014 - art. 39**

Les sociétés coopératives de commerçants de détail sont des sociétés à capital variable constituées sous forme de société à responsabilité limitée ou de société anonyme et fonctionnant conformément aux dispositions du livre II, titre III, chapitre Ier. Elles sont régies par les dispositions du présent chapitre et par celles non contraires du livre II, titres Ier à IV et de la loi n° 47-1775 du 10 septembre 1947 portant statut de la coopération. Les dispositions du livre II, titres Ier à IV concernant la constitution des réserves légales leur sont applicables.

The only companies and unions formed for the purpose of carrying out the operations referred to in I . article L. 124-1 and which comply, for their constitution and operation, with the requirements of this chapter.

#### Article L124-4

**Modified by Ordinance n°2021-1189 of September 15, 2021 - art. 3**

Without prejudice to the application of the provisions of Article 3 bis of Law No. 47-1775 of September 10, 1947 on the status of cooperation, any trader, exercising the retail trade, regularly established on the territory of a State foreigner, can be a member of traders' cooperatives. The same applies to cooperative companies governed by this chapter, as well as companies registered both in the national register of companies as a company in the trades and crafts sector and in the register of commerce and companies. The cooperatives governed by this chapter may admit as associates natural or legal persons interested in their activity and competent to know about it.

Retail cooperative societies which carry out the activities referred to in 2° of Article L. 124-1 may, in addition, admit as a member any person referred to in Article L. 125-1 .

Retailers whose cooperative is affiliated with another retailer's cooperative can benefit directly from the latter's services.

**NOTA :**

*In accordance with Article 47 of Ordinance No. 2021-1189 of September 15, 2021, these provisions come into force on January 1, 2023.*

**Article L124-4-1**

**Creation LAW n°2014-856 of July 31, 2014 - art. 40**

The articles of association of a traders' cooperative may provide that the partner who wishes to sell his business, or more than 50% of the shares or shares making up the capital of the company operating this fund, or even the real estate in which is operated this fund, must inform the cooperative. The cooperative has, from the receipt of this information, a period of three months to submit an acquisition offer.

The assignment made in disregard of the first paragraph may be canceled by the competent court.

If the assignment has not taken place within two years, the assignor shall inform the cooperative, which may submit a new offer under the conditions provided for in the first paragraph.

The clause mentioned in the first paragraph is set aside in the event of succession, liquidation of the matrimonial property regime or transfer to a spouse, an ascendant or a descendant.

**Article L124-5**

**Modified by ORDER n°2015-1127 of September 10, 2015 - art. 1**

The companies governed by this chapter may set up associations with each other having the same objects as those defined in Article L. 124-1 .

These unions must comply, for their constitution and operation, with the same rules as the said companies. The first paragraph of article 9 of the law of September 10, 1947 on the status of cooperation is applicable to them.

Unions of retail cooperative societies may only include cooperative retail societies or their associates. Retailers whose cooperative is affiliated with a union can benefit directly from the services of this union.

Retail merchants' cooperative societies and their unions may form mixed unions with other cooperative societies and their unions.

By way of derogation from Article L. 223-1 , the number of partners in a union governed by this article may not be less than four in the case of a limited liability company.

**Article L124-6**

**Modified by LAW n°2014-856 of July 31, 2014 - art. 39**

In a cooperative constituted in the form of a public limited company, the directors or the members of the management board and of the supervisory board are natural persons having either the status of associate, in a personal capacity, or the status of chairman of the board of directors, general manager, member of the management board or manager of a company which itself has the status of partner.

The functions of the members of the Board of Directors or the members of the Supervisory Board are free and only give the right to the reimbursement, on justification, of the expenses, as well as, if necessary, the payment of an indemnity compensating for the time and work devoted to the administration of the cooperative.

The Chairman of the Board of Directors or the members of the Management Board as well as the Chairman of the Supervisory Board may receive remuneration. However, they may only be remunerated on a pro rata basis for the transactions carried out or the surplus realized if this mode of remuneration is provided for in the articles of association. These specify the body empowered to set the maximum annual compensation for a period not exceeding five years.

The decisions taken for the execution of the preceding paragraph are ratified by the annual general meeting following the date on which they were made.

**Article L124-6-1**

**Creation LAW n°2014-856 of July 31, 2014 - art. 39**

In a cooperative incorporated as a limited liability company, the manager(s) are natural persons having either the status of associate in a personal capacity, or the status of chairman of the board of directors, general manager, member of the management board or manager of a company which itself has the status of partner. Cooperative societies with more than twenty members must be administered by three or more managers.

**Article L124-7**

The statutes may provide that cooperative societies of retail traders are associated under the conditions provided for in article 3 bis of the law of 10 September 1947 on the statute of cooperation. In this case, they cannot use the services of the cooperative society with which they are associated.

**Article L124-8**

**Modified by LAW n°2014-856 of July 31, 2014 - art. 39**

The shareholders' meeting or the general meeting deliberates validly when one third of the existing shareholders on the date of the agreement are present or represented.

However, meetings convened with a view to amending the articles of association can only validly deliberate if at least half of the existing shareholders on the date of the notice are present or represented.

Shareholders who have cast their vote by correspondence, when the statutes authorize them to do so, count for the determination of the quorum.

When the quorum is not reached, a new meeting is convened. It deliberates validly regardless of the number of shareholders present or represented.

#### Article L124-9

**Modified by LAW n°2014-856 of July 31, 2014 - art. 39**

The deliberations of the shareholders' meeting or the general meeting are taken by a majority of the votes of the shareholders present or represented. However, a majority of two thirds of the votes of the shareholders present or represented is required for any modification of the statutes.

If the cooperative carries out the activities provided for in 2° of Article L. 124-1, this provision is waived under the conditions provided for in Article L. 125-10.

#### Article L124-10

**Modified by LAW n°2014-856 of July 31, 2014 - art. 39**

The exclusion of a partner may be pronounced, as the case may be, by the board of directors or by the supervisory board if the cooperative society is constituted in the form of a public limited company, or by the management if it is a matter of a limited liability company, the interested party being duly heard.

Any shareholder subject to an exclusion measure has the possibility of appealing against this decision before the general meeting or the shareholders' meeting which decides on his appeal during the first ordinary meeting following the notification of the exclusion. This takes effect on the day of notification of its acceptance by the general meeting or the shareholders' meeting.

However, when the company is constituted as a public limited company, the board of directors or the supervisory board, as the case may be, when the interests of the company so require, suspend the exercise of the rights that the excluded partner derives from his quality of cooperator until notification to the latter of the decision of the general meeting, without the duration of this suspension being able to exceed one year.

If the decision to exclude a partner is not justified by a serious and legitimate reason, the court, seized within one month from the notification of the rejection of the partner's appeal by the general meeting or the shareholders' meeting may either reinstate the unduly excluded shareholder, or award him damages, or pronounce one or the other of these measures.

When the cooperative carries out the activities provided for in 2° of Article L. 124-1, the provisions of this article do not apply. Articles L. 125-15 and L. 125-16 apply.

#### Article L124-11

**Modified by LAW n°2014-856 of July 31, 2014 - art. 39**

If it is a cooperative carrying out the activities provided for in 2° of Article L. 124-1, the reimbursement of the shares of the partner who withdraws or who is excluded is carried out, by way of derogation from Article 18 of the law of September 10, 1947 on the status of cooperation, under the conditions provided for in Articles L. 125-17 and L. 125-18.

However, he remains bound for five years from the day on which he has definitively lost his status as a member, both towards the cooperative and towards third parties, of all the obligations existing at the end of the financial year during which he left the cooperative. The board of directors, the supervisory board or the management, as the case may be, may, for a maximum of five years, keep all or part of the sums due to the former partner, pursuant to the preceding paragraph, within the limit the amount necessary to guarantee the obligations for which he is bound pursuant to this paragraph, and unless the interested party provides sufficient security.

#### Article L124-12

**Modified by LAW n°2014-856 of July 31, 2014 - art. 39**

The ordinary general meeting may, by ruling under the quorum and majority conditions of the extraordinary general meeting if the cooperative is constituted in the form of a public limited company, or the shareholders' meeting ruling under the quorum and majority conditions of the meeting for the purpose of amending the articles of association, in the case of a cooperative society constituted in the form of a limited liability company, converting into shares all or part of the rebates blocked in individual accounts as well as all or part of the rebates distributable to cooperators for the past financial year.

In the latter case, the rights of each member in the allocation of shares resulting from this capital increase are identical to those he would have had in the distribution of rebates.

#### Article L124-13

The Caisse centrale de credit coopératif is authorized to carry out all financial transactions in favor of the companies incorporated in accordance with the provisions of this chapter, in particular to make available to them the funds which are specially allocated to it or which it can obtain in the form of loans, or by the rediscount of the subscribed bills, to give its endorsement or to stand surety to guarantee their loans, to receive and manage their deposits of funds.

#### Article L124-14

In the event of the dissolution of a cooperative society or a union governed by the provisions of this chapter and subject to the provisions of the following paragraphs of this article, the net surplus of assets over capital shall devolve either to other cooperative societies or unions of cooperatives, or to works of general or professional interest.

However, a cooperative company or a union may be authorized by order of the Minister in charge of the economy and finance, taken after consulting the Higher Council for Cooperation, to distribute the net surplus of assets to its associates. This distribution cannot include the part of the net surplus of assets which results from the aid granted directly or indirectly to the company or the union by the State or by a public authority. This part must be transferred under the conditions provided for in the authorization order.

The distribution between the partners of the net surplus assets is automatic when the cooperative society carries out the activities referred to in 2° of Article L. 124-1.

#### Article L124-15

**Modified by LAW n°2012-387 of March 22, 2012 - art. 1**

Any group of retail traders established with a view to carrying out one or more activities referred to in 1°, 3° and 4° of Article L. 124-1 must, if it has not adopted the form of cooperative society of retail traders governed by the provisions of this chapter, be constituted in the form of a public limited company, a limited liability company, an economic interest grouping or a European economic interest grouping.

The public prosecutor or any interested person may seize the president of the competent court ruling in summary proceedings in order to enjoin, if necessary under penalty, the merchants who are members of the group formed in violation of the first paragraph to constitute themselves in one of the forms provided.

#### Article L124-16

Cooperative societies for the joint purchase of retail traders and their unions incorporated under Law No. 49-1070 of August 2, 1949 are considered to satisfy the provisions of this chapter without it being necessary for them to modify their statutes.

However, the companies benefiting from the provisions of the preceding paragraph must bring their articles of association into conformity on the occasion of any subsequent modification of the said articles of association.

### **Chapter V: Collective stores of independent traders (Articles L125-1 to L125-19)**

#### **Section 1: Constitution of the collective store (Articles L125-1 to L125-9)**

##### Article L125-1

**Modified by Ordinance n°2021-1189 of September 15, 2021 - art. 4**

The provisions of this chapter apply to natural or legal persons brought together in the same enclosure, under the same name, to operate, according to common rules, their business or their business in the trades and crafts sector registered in the national business register without alienating ownership, thereby creating a collective store of independent traders.

*NOTA :*

*In accordance with Article 47 of Ordinance No. 2021-1189 of September 15, 2021, these provisions come into force on January 1, 2023.*

##### Article L125-2

The persons referred to in Article L. 125-1 constitute, in the form of an economic interest group or a public limited company with variable capital or a cooperative society of retail traders, a legal entity which has the property and enjoyment or only the use of the buildings and ancillary areas of the collective store, defines and implements the common policy, organizes and manages the common services.

The economic interest group or the company, owner of all or part of the land, buildings and ancillary areas of the collective store, may not retrocede all or part of this real estate to its members during the existence of the said store.

Only economic interest groups, public limited companies with variable capital and cooperative companies of retail traders who are conform, for their construction and operation, to the requirements of this chapter.

##### Article L125-3



The economic interest group or the company which uses financial leasing is considered as a user within the meaning of article 5 b of ordinance no. 67-837 of September 28, 1967.

#### Article L125-4

Each member of the economic interest grouping or of the company holds shares or shares that cannot be dissociated from the use of a location determined by the constitutive contract or the articles of association, and benefits from common services.

The constitutive contract or the articles of association may assign any holder another location depending on seasonal activities.

The meeting of members or the general meeting, as the case may be, is solely competent to modify, with the agreement of the interested parties, the pitches thus allocated.

The provisions of this chapter relating to shares are applicable to the shares referred to in the first paragraph above.

#### Article L125-5

**Modified by Ordinance n°2021-1189 of September 15, 2021 - art. 4**

When a goodwill or a company in the trades and crafts sector registered in the national register of companies is transferred or created in the collective store, it is not contributed to the group or to the company representing the shares allocated to their owner. The shares of the group or the company do not represent the value of the fund or the company. All contributions other than cash are also prohibited.

*NOTA :*

*In accordance with Article 47 of Ordinance No. 2021-1189 of September 15, 2021, these provisions come into force on January 1, 2023.*

#### Article L125-6

**Modified by Ordinance n°2021-1189 of September 15, 2021 - art. 4**

In the event of lease-management of the business or of the business in the trades and crafts sector registered in the national business register, the lessor is the sole member of the group or of the company. The transfer to the collective store of a fund or a pre-existing company can only be made with the agreement of the managing tenant.

*NOTA :*

*In accordance with Article 47 of Ordinance No. 2021-1189 of September 15, 2021, these provisions come into force on January 1, 2023.*

#### Article L125-7

**Amended by LAW n°2016-1524 of November 14, 2016 - art. 21**

The owner of a goodwill encumbered with the privilege or pledge provided for in Chapters I to III of Title IV of this book must, prior to joining a collective store and the transfer of this fund to the said store, complete the publication formalities provided for in Articles L. 141-21 and L. 141-22 .

If the creditor holding the lien or pledge has not notified opposition by registration at the registry within ten days of the latest date of the publications provided for in Articles L. 141-12 and L. 141-13 , he is deemed to have given his consent to the membership of the owner of the fund.

In the event of opposition, the release of the latter is ordered in court, if the owner of the fund justifies that the securities available to the creditor are not diminished by the fact of joining the collective store or that guarantees at least equivalents are offered. If the objection is not lifted, the merchant cannot join the collective store as long as he remains the owner of the fund.

#### Article L125-8

The constitutive contract or the articles of association, as the case may be, must, on pain of nullity, and under the joint and several liability of the signatories, contain the express mention, either that no fund is encumbered with the privilege or pledge provided for in chapters I to III of title IV of this book, or, in the contrary case, that no opposition has been formed prior to the adhesion of one of the members or that its release has been ordered by the courts.

#### Article L125-9

The collective stores of independent traders already created through the intermediary of a legal entity may, by way of adaptation or transformation, come under the regime provided for in this chapter. Any member may, by way of summary proceedings, request the appointment of a representative specially responsible for convening the meeting for the purpose of deciding on these adaptations or transformations. Notwithstanding any provision to the contrary, these decisions are taken by a majority in number of the members making up the legal person. Those who did not

take part may, however, withdraw by requesting reimbursement of their securities, shares or units, under the conditions provided for in Articles L. 125-17 and L. 125-18 .

## **Section 2: Administration of the collective store (Articles L125-10 to L125-11)**

### **Article L125-10**

Rules of procedure are annexed to the constitutive contract or to the statutes, as the case may be.

The constitutive contract or the articles of association, as well as the internal regulations, can only be modified by the meeting, or the general meeting, as the case may be, deciding by an absolute majority in number of the members of the group or of the company, or , if the constitutive contract or the articles of association so provide, by a greater majority. The same applies to decisions on approval or exclusion.

The other decisions are taken under the conditions specific to each of the forms provided for in Article L. 125-2 . However, notwithstanding the provisions of Book II, the articles of association of a public limited company with variable capital constituted pursuant to this chapter may stipulate that each of the shareholders has one vote at a general meeting, regardless of the number of shares He holds.

### **Article L125-11**

The rules of procedure determine the rules specific to ensuring a common commercial policy. It sets the general operating conditions, and in particular:

- 1° The days and hours of opening as well as, where applicable, the seasonal closing periods or for annual holidays;
- 2° The organization and management of common services and the distribution of charges corresponding to these services;
- 3° Subject to the legislation in force in the matter, the organization of competing activities, as well as the determination of the ancillary activities which may be exercised by each member in competition with those of other members of the store;
- 4° The choice of advertising inscriptions and decorations specific to each location and possibly their harmonization;
- 5° Collective or individual actions to promote the store, in particular those of a seasonal nature.

## **Section 3: Approval and exclusion. (Articles L125-12 to L125-18)**

### **Article L125-12**

The constitutive contract or the articles of association, as the case may be, may make any transfer of shares subject to the approval of the transferee by the meeting of the grouping or by the general meeting of the company, as the case may be. The meeting or the general meeting decides within one month from the date of the request for approval. The constitutive contract or the articles of association, as the case may be, may also subject to this approval the heirs of a deceased unitholder who did not participate in his activity in the collective store. Refusal of approval gives the right to compensation under the conditions provided for in Articles L. 125-17 and L. 125-18 .

### **Article L125-13**

La clause d'agrément n'est pas opposable en cas de vente forcée des parts, que celles-ci aient ou non fait l'objet d'un nantissement.

### **Article L125-14**

Le contrat constitutif ou les statuts, selon le cas, peuvent subordonner la mise en location-gérance d'un fonds de commerce ou d'une entreprise artisanale du magasin collectif à l'agrément du locataire gérant par l'assemblée.

En cas de redressement ou de liquidation judiciaires du propriétaire, cette clause ne peut être invoquée si la conclusion d'un contrat de location-gérance est autorisée par le tribunal conformément aux dispositions du titre II du livre VI.

### **Article L125-15**

The administrative body of the collective store may issue a warning to any member who, by his act or that of the persons to whom he has entrusted the operation of his fund or his company, commits an infringement of the internal regulations.

In the event of lease-management, this warning is also notified to the tenant-manager.

If within the following three months, this warning has had no effect and if the legitimate interests of the collective store or of some of its members are compromised, the meeting of members, or the general meeting, as the case may be, has the right to pronounce, by the majority provided for in Article L. 125-10, the exclusion of the person

concerned.

Until the exclusion decision has become final, the excluded person has the option of presenting one or more transferees under the conditions determined by the constitutive contract or the articles of association.

#### Article L125-16

**Modified by Ordinance n°2019-964 of September 18, 2019 - art. 35 (DV)**

Subject to the share valuation procedure provided for in the second paragraph of Article L. 125-17, any member of a collective store may appeal to the court of law, within one month of its notification by registered letter, with request for acknowledgment of receipt, any decision taken pursuant to Articles L. 125-12, L. 125-14 and the third paragraph of Article L. 125-15.

The court may annul or revise the decision referred to it or substitute its own decision.

Notwithstanding any clause to the contrary, legal recourse shall suspend the execution of the decision referred, except in the case of an exclusion decision motivated by the non-use of the pitches or by the non-payment of charges.

*NOTA :*

*In accordance with Article 36 of Ordinance No. 2019-964 of September 18, 2019, these provisions come into force on January 1, 2020.*

#### Article L125-17

**Modified by Ordinance n°2021-1189 of September 15, 2021 - art. 4**

In the event of exclusion, departure or death accompanied by the refusal of approval of the transferee or of the successors, the holder of the shares, or, in the event of death, his successors, have the option of transferring or disposing of their funds trade or their business in the trades and crafts sector registered in the national business register. The new beneficiary of the site or, failing that, the group or the company, as the case may be, reimburses them the value of their shares, increased, if necessary, by the added value that their fittings may have conferred at the location they held.

This value is fixed by the meeting or the general meeting, as the case may be, at the same time as the decision to exclude or the decision refusing the approval of the assignee or successors is taken. In case of disagreement, it is determined on the date of these decisions by an expert appointed by judgment of the president of the judicial court under the conditions provided for in article 1843-4 of the civil code. This judgment is not subject to any appeal notwithstanding any clause to the contrary. The expert report is subject to the approval of the president of the court ruling according to the accelerated procedure on the merits.

*NOTA :*

*In accordance with Article 47 of Ordinance No. 2021-1189 of September 15, 2021, these provisions come into force on January 1, 2023.*

#### Article L125-18

**Amended by Ordinance No. 2019-738 of July 17, 2019 - art. 3**

In the cases provided for in the first paragraph of Article L. 125-17, the grouping or the company may only install a new beneficiary if the former holder of the shares has been paid or, in the event of death, to his heirs, the sums provided for in said Article L. 125-17, or failing that, a provision fixed by the president of the court ruling in summary proceedings.

However, this advance payment is not required when a guarantee has been given for the amount of these sums or this provision by a credit institution or a financial institution specially authorized for this purpose, or when this amount has been deposited between the hands of an agent appointed if necessary by order issued in summary proceedings.

In addition, in the case of a cooperative, the board of directors, the management board or the management, as the case may be, may invoke the provisions of the second paragraph of article L. 124-11.

*NOTA :*

*In accordance with Article 30 of Ordinance No. 2019-738 of July 17, 2019, these provisions apply to requests submitted as of January 1, 2020.*

### **Section 4: Dissolution. (Article L125-19)**

#### Article L125-19

Unless there is a contrary clause in the constitutive contract or the articles of association, the legal reorganization or liquidation of one of the members does not automatically lead to the dissolution of the economic interest grouping.

### **Chapter VI: Mutual Guarantee Societies. (Article L126-1)**

#### Article L126-1

**Modified by Ordinance n°2021-1192 of September 15, 2021 - art. 34**

The rules for the creation of mutual guarantee companies between traders, industrialists, manufacturers, craftsmen, commercial companies, members of the liberal professions, owners of buildings or property rights, as well as between operators, holders of stocks of crude oil or petroleum products, are set by the law of March 13, 1917 .

*NOTA :*

*In accordance with I of Article 37 of Ordinance No. 2021-1192 of September 15, 2021, these provisions will come into force on January 1, 2022.*

## **Chapter VII: Business project support contract for the creation or resumption of an economic activity. (Articles L127-1 to L127-7)**

Article L127-1

**Creation Law n°2003-721 of August 1, 2003 - art. 20 () JORF August 5, 2003**

L'appui au projet d'entreprise pour la création ou la reprise d'une activité économique est défini par un contrat par lequel une personne morale s'oblige à fournir, par les moyens dont elle dispose, une aide particulière et continue à une personne physique, non salariée à temps complet, qui s'engage à suivre un programme de préparation à la création ou à la reprise et à la gestion d'une activité économique. Ce contrat peut aussi être conclu entre une personne morale et le dirigeant associé unique d'une personne morale.

Article L127-2

**Création Loi n°2003-721 du 1 août 2003 - art. 20 () JORF 5 août 2003**

Le contrat d'appui au projet d'entreprise est conclu pour une durée qui ne peut excéder douze mois, renouvelable deux fois. Les modalités du programme d'appui et de préparation et de l'engagement respectif des parties contractantes sont précisées par le contrat. Sont ainsi déterminées les conditions dans lesquelles la personne bénéficiaire peut prendre à l'égard des tiers des engagements en relation avec l'activité économique projetée.

Le contrat est, sous peine de nullité, conclu par écrit.

Article L127-3

**Création Loi n°2003-721 du 1 août 2003 - art. 20 () JORF 5 août 2003**

Le fait pour la personne morale responsable de l'appui de mettre à disposition du bénéficiaire les moyens nécessaires à sa préparation à la création ou la reprise et à la gestion de l'activité économique projetée n'emporte pas, par lui-même, présomption d'un lien de subordination.

La mise à disposition de ces moyens et la contrepartie éventuelle des frais engagés par la personne morale responsable de l'appui en exécution du contrat figurent à son bilan.

Article L127-4

**Création Loi n°2003-721 du 1 août 2003 - art. 20 () JORF 5 août 2003**

Lorsqu'en cours de contrat débute une activité économique, le bénéficiaire doit procéder à l'immatriculation de l'entreprise, si cette immatriculation est requise par la nature de cette activité.

Prior to any registration, the commitments made by the beneficiary with regard to third parties during the support and preparation program are, with regard to these third parties, assumed by the guide. The legal person responsible for the support and the beneficiary are, after registration, jointly and severally bound by the commitments made by the latter in accordance with the stipulations of the support contract, until the end of the contract.

Article L127-5

**Creation Law n°2003-721 of August 1, 2003 - art. 20 () JORF August 5, 2003**

The business project support contract for the creation or resumption of an economic activity may not have the purpose or effect of infringing the provisions of Articles L. 125-1 , L. 125-3, L. 324-9 or L. 324-10 of the labor code.

The act of creating or taking over a business must be clearly distinguished from the support function.

Article L127-6

**Creation Law n°2003-721 of August 1, 2003 - art. 20 () JORF August 5, 2003**

The professional and social situation of the beneficiary of the business project support contract is determined by Articles L. 783-1 and L. 783-2 of the Labor Code. The legal person responsible for the support is liable to third parties for damage caused by the beneficiary during the support and preparation program mentioned in Articles L. 127-1 and L. 127-2 before the registration referred to in Article L. 127-4. After registration, the legal person responsible for the support guarantees the responsibility on the occasion of the support contract, if the beneficiary has complied with the clauses of the contract until the end of the latter.

Article L127-7

**Creation Law n°2003-721 of August 1, 2003 - art. 20 () JORF August 5, 2003**

The terms and conditions for publicizing business project support contracts for the creation or resumption of an economic activity and the other implementing measures of this chapter are set by decree in the Council of State.

**Chapter VIII: Incapacity to exercise a commercial or industrial profession. (repealed)****Article L128-1 (repealed)****Repealed by LAW n°2008-776 of August 4, 2008 - art. 70**

No one may, directly or indirectly, for his own account or for the account of others, undertake the exercise of a commercial or industrial profession, direct, administer, manage or control, in any capacity whatsoever, a commercial or industrial enterprise. or a commercial company if he has been the subject of a final conviction for less than ten years:

1° For crime;

2° A sentence of at least three months' imprisonment without suspension for:

a) One of the offenses provided for in Title I of Book III of the Penal Code, and for offenses provided for by special laws and punishable by the penalties provided for fraud and breach of trust;

b) Concealment or one of the offenses assimilated to concealment or close to it provided for in section 2 of chapter I of title II of book III of the penal code;

c) Bleaching;

d) Active or passive corruption, influence peddling, embezzlement and misappropriation of property;

e) Forgery, falsification of securities or other fiduciary securities issued by public authority, falsification of the marks of authority;

f) Participation in a criminal association;

g) Drug trafficking;

h) Procuring or one of the offenses provided for in sections 2 and 2 bis of chapter V of title II of book II of the penal code;

i) One of the offenses provided for in Section 3 of Chapter V of Title II of Book II of the Penal Code;

j) One of the infringements of the legislation on commercial companies provided for in Title IV of Book II of this code;

k) Bankruptcy;

l) Practice of usurious lending;

m) One of the offenses provided for by the law of May 21, 1836 prohibiting lotteries, by the law of June 15, 1907 relating to casinos (1) and by law n° 83-628 of July 12, 1983 relating to games of chance ;

n) Violation of the legislation and regulations of financial relations with foreign countries;

o) Tax evasion;

p) One of the offenses provided for in Articles L. 115-16 and L. 115-18 , L. 115-24 , L. 115-30 , L. 121-6 , L. 121-28 , L. 122- 8 to L. 122-10 , L. 213-1 to L. 213-5 , L. 217-1 to L. 217-3 , L. 217-6 to L. 217-10 of the Consumer Code;

q) One of the offenses provided for in Articles L. 324-9, L. 324-10 and L. 362-3 of the Labor Code;

3° Upon dismissal from the office of public or ministerial officer.

**Article L128-2 (repealed)****Repealed by LAW n°2008-776 of August 4, 2008 - art. 70**

Persons carrying out one of the activities mentioned in Articles L. 128-1

who are the subject of one of the convictions provided for in the same article must cease their activity within a period of three months from the date on which the decision resulting in the inability to practice has become final.

**Article L128-3 (repealed)****Repealed by LAW n°2008-776 of August 4, 2008 - art. 70**

In the event of a conviction pronounced by a foreign court and which has become res judicata for an offense constituting, according to French law, a crime or one of the offenses mentioned in articles L. 128-1, the tribunal de grande instance of the convicted person's domicile, ruling in correctional matters, at the request of the public prosecutor, declares, after finding the regularity and legality of the conviction and the person concerned duly summoned to the council chambers, that there is reason to application of the incapacity provided for in article L. 128-1.

This incapacity also applies to any non-rehabilitated person who was disqualified from practicing by a foreign court when the judgment was declared enforceable in France. The application for exequatur may be, for this purpose only, made by the public prosecutor before the tribunal de grande instance of the domicile of the convicted person.

**Article L128-4 (repealed)****Repealed by LAW n°2008-776 of August 4, 2008 - art. 70**

The court which pronounced the **Creation Ordinance n°2005-428 of May 6, 2005 - art. 1 () JORF May 7, 2005** dismissal provided for in 3° of Article L.

128-1 may, at the request of the dismissed public or ministerial officer, either relieve him of the incapacity provided for in the aforementioned article, or reduce the duration of the incapacity.

#### **Article L128-5 (repealed)**

**Repealed by LAW n°2008-776 of August 4, 2008 - art. 70**

The penalties provided for in Article **Creation Ordinance n°2005-428 of May 6, 2005 - art. 1 () JORF May 7, 2005** 313-1 of the Penal Code shall be imposed on any person who contravenes the incapacities provided for in Articles L. 128-1, L. 128-2 and L. 128-3.

Persons guilty of the offense provided for in the preceding paragraph also incur the additional penalty of confiscation, in accordance with the procedures provided for by article 131-21 of the criminal code, of goods or goodwill.

#### **Article L128-6 (repealed)**

**Repealed by LAW n°2008-776 of August 4, 2008 - art. 70**

The provisions of this chapter do not **Creation Ordinance n°2005-428 of May 6, 2005 - art. 1 () JORF May 7, 2005** prevent the application of the rules specific to the practice of certain professions.

They apply to persons who carry out commercial representation.

### **Chapter VIII: National file of prohibitions to manage (Articles L128-1 to L128-5)**

#### **Article L128-1**

**Amended by Ordinance No. 2018-1125 of December 12, 2018 - art. 3**

In order to fight against fraud, to prevent the commission of the offenses provided for in articles 434-40-1 of the penal code and L. 654-15 of the present code and to promote the execution of the measures prohibiting management pronounced by the courts, the National Council of commercial court clerks is authorized to implement an automated national file of prohibitions to manage.

Maintaining this file is a public service mission carried out by the National Council of Commercial Court Registrars at its expense and under its responsibility.

Included in this file are personal bankruptcies and other measures prohibiting directing, managing, administering or controlling, directly or indirectly, a commercial, industrial or craft business, a farm, a business carrying out any other independent or a legal person pronounced as a civil or commercial sanction or as a penalty and resulting from judicial decisions having the force of res judicata. Disciplinary sanctions are not listed.

The file mentions the judgment or ruling that pronounced the measure.

This file is governed by this chapter and by law n° 78-17 of January 6, 1978 relating to data processing, files and freedoms.

#### **NOTA :**

*In accordance with Article 29 of Ordinance No. 2018-1125 of December 12, 2018, these provisions come into force at the same time as Decree No. 2019-536 of May 29, 2019 taken for the application of Law No. 78-17 of January 6, 1978 relating to data processing, files and freedoms as of June 1, 2019.*

#### **Article L128-2**

**Modified by Ordinance n°2021-1189 of September 15, 2021 - art. 5**

Commercial court clerks and civil court clerks ruling on commercial matters have permanent access to the file mentioned in Article L. 128-1 .

May be recipients, within the meaning 9) of Article 4 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and to the free movement of this data, on simple request and free of charge, of information and personal data recorded in the file provided for in the same article L. 128-1:

- 1° Magistrates and staff of the courts of the judiciary, for the purposes of the exercise of their missions;
- 2° The personnel of the services of the Ministry of Justice, for the purposes of the exercise of their missions;
- 3° Representatives of the administration and organizations defined by decree in Council of State, as part of their mission to fight against fraud;
- 4° The personnel of the departmental and regional chambers of trades and crafts and the personnel of the chambers of trades of Alsace and Moselle, within the framework of their validation and control missions relating to the national register of companies, designated according to procedures defined by decree in Council of State.

The persons mentioned in 2° shall inform the secretary general of the interministerial industrial restructuring committee, at his request, if a person approached to exercise management, management, administration or control functions in a file referred to this committee is registered in this committee. file.

NOTA :

*In accordance with Article 47 of Ordinance No. 2021-1189 of September 15, 2021, these provisions come into force on January 1, 2023.*

#### Article L128-3

**Modified by LAW n°2012-387 of March 22, 2012 - art. 71**

Consultations of the file mentioned in Article L. 128-1 are subject to recording including the identifier of the consultant, the date and time of the consultation.

#### Article L128-4

**Amended by Ordinance No. 2018-1125 of December 12, 2018 - art. 3**

No interconnection within the meaning of 3° of I of article 33 of the aforementioned law n° 78-17 of January 6, 1978 can be carried out between the national automated file of prohibitions to manage and any other file or processing of data. personnel held by any person or by a State service not dependent on the Ministry of Justice.

NOTA :

*In accordance with Article 29 of Ordinance No. 2018-1125 of December 12, 2018, these provisions come into force at the same time as Decree No. 2019-536 of May 29, 2019 taken for the application of Law No. 78-17 of January 6, 1978 relating to data processing, files and freedoms as of June 1, 2019.*

#### Article L128-5

**Modified by LAW n°2012-387 of March 22, 2012 - art. 71**

The methods of application of this chapter are determined by decree in Council of State taken after opinion of the National Commission of data processing and freedoms.

### Chapter IX: Paid tutoring in business. (Article L129-1)

#### Article L129-1

**Modified by LAW n°2019-486 of May 22, 2019 - art. 10**

The transferor of a commercial, craft, liberal or service company may, after this transfer, enter into an agreement with the transferee of this company under the terms of which he undertakes, for remuneration or on a voluntary basis, to carry out a temporary service tutoring. This service aims to ensure the transmission to the assignee of the professional experience acquired by the assignor as head of the assigned business. If remuneration is paid, the guardian remains affiliated to the social security schemes to which he belonged prior to the assignment.

The conditions of application of the provisions of this article are fixed by decree in Council of State.

### TITLE III: Brokers, commission agents, carriers, commercial agents and independent door-to-door sellers. (Articles L131-1 to L135-3)

#### Chapter I: Brokers. (Articles L131-1 to L131-35)

##### Article L131-2 (repealed)

**Repealed by Law n°2001-43 of January 16, 2001 - art. 1 (VT) JORF January 17, 2001**

Interpreter brokers and shipmasters broker charters. They also have the sole right to translate, in the event of disputes brought before the courts, the declarations, charter parties, bills of lading, contracts, and all commercial documents whose translation would be necessary. They note the course of the freight or the charter.

In contentious commercial matters, and for the customs service, they alone serve as intermediaries for all foreigners, masters of ships, merchants, ship's crews and other seafarers.

##### Article L131-4 (repealed)

**Repealed by Law n°2001-43 of January 16, 2001 - art. 7 (V) JORF January 17, 2001**

The same person may, if the act establishing him authorizes him to do so, combine the functions of goods broker and interpreter broker and ship's operator.

##### Article L131-6 (repealed)

**Repealed by Law n°2001-43 of January 16, 2001 - art. 7 (V) JORF January 17, 2001**

Ship operator interpreter brokers are required to have a book in the forms prescribed by a Conseil d'Etat decree.

They are required to mention in this book, and in order of dates, without erasures, spaces or transpositions, and without abbreviations or figures, all the conditions of the negotiations and, in general, all the operations carried out through them.

##### Article L131-7 (repealed)

**Repealed by Law n°2001-43 of January 16, 2001 - art. 7 (V) JORF January 17, 2001**

A broker cannot, in any case  
and under any pretext, carry out commercial or banking operations on his behalf.

He cannot be interested directly or indirectly, under his name, or under an intermediary name, in any commercial enterprise.

**Article L131-8 (repealed)****Repealed by Law n°2001-43 of January 16, 2001 - art. 7 (V) JORF January 17, 2001**

Any breach of the provisions  
set out in the preceding article shall result in the penalty of dismissal, and is punished by a fine of 25,000 F, without prejudice to the action of the parties for damages.

**Article L131-9 (repealed)****Repealed by Law n°2001-43 of January 16, 2001 - art. 7 (V) JORF January 17, 2001**

Any broker dismissed under  
the preceding article cannot be reinstated in his duties.

**Article L131-10 (repealed)****Repealed by Law n°2001-43 of January 16, 2001 - art. 7 (V) JORF January 17, 2001**

A Conseil d'Etat decree lays  
down the conditions relating to the negotiation and transfer of ownership of public and other securities likely to be listed.

**Section 1: Brokers in general (Articles L131-1 to L131-11)****Article L131-1**

There are brokers of goods, brokers interpreters and drivers of ships, brokers of transport by land and by water.

**Article L131-2****Amended by LAW n°2011-850 of July 20, 2011 - art. 41**

Commodity brokerage can be done by any trader.

**Article L131-3**

Brokers of transport by land and by water constituted according to the law have alone, in the places where they are established, the right to broker transport by land and by water. They may not combine their functions with those of brokers of goods or brokers conducting ships, referred to in Article L. 131-1 .

**Article L131-5**

Investment service providers may conduct, concurrently with commodity brokers, negotiations and brokerage of sales or purchases of metallic materials. They alone have the right to observe its course.

**Article L131-11****Modified by LAW n°2012-387 of March 22, 2012 - art. 119**

The fact that a broker is in charge of a brokerage operation for a matter in which he had a personal interest, without notifying the parties to whom he will have served as intermediary, is punishable by a fine of 3,750 euros without prejudice of the parties' action for damages. If he is registered on the list of brokers mentioned in Article L. 131-12 , he is removed from it without being able to register again for a period which may not exceed five years.

**Section 2: Sworn commodity brokers (Articles L131-12 to L131-35)****Sub-section 1: Conditions for swearing in (Articles L131-12 to L131-22)****Article L131-12****Creation LAW n°2011-850 of July 20, 2011 - art. 41**

The list of sworn commodity brokers is drawn up by each Court of Appeal upon requisition by the Attorney General. It shows, for each of them, the date of their registration as well as their professional specialization(s) as sanctioned by the aptitude test provided for in 5° of Article L. 131-13 .

The Court of Appeal may make new entries or modify the list whenever it is required to do so.

**Article L131-13****Creation LAW n°2011-850 of July 20, 2011 - art. 41**

No one can be registered on the list of sworn goods brokers of a court of appeal if he does not meet the following conditions:



1° To be French or a national of a Member State of the European Union or of another State party to the agreement on the European Economic Area;

2° Not having been subject to personal bankruptcy or another sanction pursuant to Title V of Book VI or the previously applicable provisions and not having been the author of acts contrary to honor or probity having given rise to a criminal conviction or facts having given rise to a disciplinary or administrative sanction of dismissal, radiation, revocation, withdrawal of approval or authorization in the profession exercised previously;

3° Be registered in the trade and companies register in a personal capacity;

4° Be authorized to conduct voluntary sales of furniture at public auction and have carried out their activity for at least two years in the professional specialty for which registration is requested;

5° Having successfully passed the aptitude test within the last three years in one or more professional specialties for which registration is requested;

6° To have his residence within the jurisdiction of the Court of Appeal.

**NOTA :**

*Loi n° 2011-850 du 20 juillet 2011 article 42 IV : Le 4° entre en vigueur le 1er août 2015. Durant cette période, le candidat à l'inscription sur la liste des courtiers de marchandises assermentés d'une cour d'appel doit justifier avoir, depuis moins de deux ans avant sa demande, soit accompli un stage de quatre ans auprès d'un courtier assermenté, dont deux ans au moins dans la spécialité professionnelle dans laquelle l'inscription est demandée, soit exercé pendant trois ans la profession de courtier de marchandises, dont deux ans au moins dans cette même spécialité, à titre personnel ou en qualité de président du conseil d'administration ou de membre du directoire d'une société anonyme, de gérant d'une société commerciale, d'associé d'une société en nom collectif, de directeur ou de fondé de pouvoir d'une entreprise pratiquant le courtage.*

**Article L131-14**

**Création LOI n°2011-850 du 20 juillet 2011 - art. 41**

En vue de l'inscription d'une personne morale sur la liste des courtiers de marchandises assermentés d'une cour d'appel, il doit être justifié :

1° Que ses dirigeants n'ont pas fait l'objet d'une condamnation pénale définitive pour des faits contraires à l'honneur, à la probité ou aux bonnes mœurs ou de faits de même nature ayant donné lieu à une sanction disciplinaire ou administrative de destitution, radiation, révocation, de retrait d'agrément ou d'autorisation dans la profession qu'ils exerçaient antérieurement ;

2° Que la personne morale exerce une activité de courtage de marchandises depuis au moins deux ans dans la spécialité professionnelle pour laquelle l'inscription est demandée ;

3° Que les activités auxquelles se livre la personne morale ne sont pas incompatibles avec les fonctions de courtier de marchandises assermenté ;

4° Qu'elle compte parmi ses dirigeants, associés ou salariés au moins une personne remplissant les conditions prévues aux 1°, 2°, 4° et 5° de l'article L. 131-13 ;

5° Qu'elle a son siège social, une succursale ou un établissement en rapport avec sa spécialité dans le ressort de la cour d'appel.

**Article L131-15**

**Création LOI n°2011-850 du 20 juillet 2011 - art. 41**

The sworn commodity broker must prove:

1° The existence in a credit institution of an account intended exclusively to receive funds held on behalf of others;

2° Insurance covering his professional liability;

3° Insurance or a guarantee guaranteeing the representation of the funds mentioned in 1°.

**Article L131-16**

**Creation LAW n°2011-850 of July 20, 2011 - art. 41**

Any change occurring in the situation of brokers who have requested or obtained their inclusion on a list, with regard to the conditions provided for in Article L. 131-15, must be brought to the attention of the Attorney General without delay.

**Article L131-17**

**Creation LAW n°2011-850 of July 20, 2011 - art. 41**

No one may be listed as a sworn commodity broker on more than one Court of Appeal list.

**Article L131-18**

**Creation LAW n°2011-850 of July 20, 2011 - art. 41**

Persons registered on the lists of sworn brokers mentioned in Article L. 131-12 may state, in the activities reserved for these brokers, their quality under the name "sworn goods broker near the court of appeal of" followed by the professional specialty or specialties under which they are registered.

Sworn commodity brokers admitted to honorary status may continue to use their title provided that they follow it with the word "honorary".

#### Article L131-19

**Creation LAW n°2011-850 of July 20, 2011 - art. 41**

Any person, other than those mentioned in Article L. 131-18, who has used one of the denominations mentioned in this same article is liable to the penalties provided for in Article 433-17 of the Criminal Code.

Anyone who uses a name tending to create confusion in the mind of the public with the names mentioned in article L. 131-18 of this code is punished with the same penalties.

#### Article L131-20

**Creation LAW n°2011-850 of July 20, 2011 - art. 41**

Apart from his function as a sworn broker of goods, he may exercise either on a personal basis or within the framework of a company his usual profession, in particular commission, brokerage, commercial agency and consignment of goods. In the exercise of these activities, he must clearly show that he is not acting as a sworn broker.

#### Article L131-21

**Creation LAW n°2011-850 of July 20, 2011 - art. 41**

Upon registration on the list drawn up by the court of appeal, the commodity broker takes an oath before this court to perform the duties of his office with honor and probity.

#### Article L131-22

**Creation LAW n°2011-850 of July 20, 2011 - art. 41**

Un courtier assermenté peut être radié de la liste dressée par la cour d'appel soit après une démission volontaire, soit par mesure disciplinaire.

Son inscription devient caduque s'il cesse d'exercer à titre personnel le courtage des marchandises faisant l'objet de la spécialité professionnelle pour laquelle il est inscrit ou si, spécialisé dans une branche d'activité pour laquelle l'exigence du renouvellement de l'examen technologique a été reconnue nécessaire, il n'a pas subi avec succès ce nouvel examen à l'expiration de la période fixée.

Il peut, pour des raisons importantes appréciées par la cour d'appel après avis du procureur général, demander sa mise en congé temporaire. Il en est fait mention sur la liste si cette mise en congé s'applique à une période égale ou supérieure à six mois.

### **Sous-section 2 : Fonctions des courtiers de marchandises assermentés (Articles L131-23 à L131-31)**

#### Article L131-23

**Création LOI n°2011-850 du 20 juillet 2011 - art. 41**

Si, dans le ressort de la cour d'appel, il n'existe pas de courtier assermenté spécialisé dans une catégorie de marchandises donnée ou si ce courtier se refuse, le tribunal peut désigner un courtier de la spécialité considérée assermenté auprès d'une autre cour d'appel ou un courtier de marchandises assermenté exerçant dans son ressort une autre spécialité professionnelle.

Hors les cas de désignation par le tribunal, le courtier de marchandises assermenté est compétent sur l'ensemble du territoire national dans la branche d'activité correspondant à sa spécialité professionnelle telle qu'elle figure sur les listes prévues à l'article L. 131-12.

#### Article L131-24

**Création LOI n°2011-850 du 20 juillet 2011 - art. 41**

Le cours des marchandises cotées à la bourse de commerce est constaté par les courtiers de marchandises assermentés de la spécialité professionnelle correspondante exerçant sur cette place.

Dans le cas où ces courtiers ne représenteraient pas suffisamment toutes les spécialités professionnelles et opérations commerciales qui se pratiquent sur cette place, la chambre de commerce et d'industrie, après avis du Conseil national des courtiers de marchandises assermentés, peut décider, chaque année, qu'un certain nombre de courtiers non assermentés et de négociants de la place concourront avec les courtiers de marchandises assermentés, et sous la responsabilité de ceux-ci, à la constatation du cours des marchandises.

Les courtiers de marchandises assermentés sont également compétents pour effectuer la constatation des cours des denrées et produits issus de l'agriculture et de la pêche faisant l'objet de ventes aux enchères en gros dans les lieux affectés à leur expédition ou à leur vente en gros.

#### Article L131-25

**Création LOI n°2011-850 du 20 juillet 2011 - art. 41**

Les courtiers de marchandises assermentés délivrent des certificats de cours des marchandises lorsque ceux-ci ont été constatés dans les conditions prévues à l'article L. 131-24.

Dans le cas contraire, ils établissent des attestations de prix indiquant, sous leur responsabilité, le prix pratiqué pour une marchandise à la date et aux lieux déterminés.

#### Article L131-26

**Création LOI n°2011-850 du 20 juillet 2011 - art. 41**

Les courtiers de marchandises assermentés procèdent aux reventes et rachats de marchandises en cas d'inexécution d'un contrat ou marché.

**Article L131-27****Création LOI n°2011-850 du 20 juillet 2011 - art. 41**

L'estimation, à défaut d'expert désigné par accord entre les parties, et la vente aux enchères publiques de marchandises déposées dans un magasin général en application de l'article L. 522-31 doivent être effectuées par les soins des courtiers de marchandises assermentés.

Les courtiers de marchandises assermentés peuvent être appelés à procéder à des expertises judiciaires ou amiables de marchandises en gros.

**Article L131-28****Modifié par Ordonnance n°2021-1192 du 15 septembre 2021 - art. 34**

Les courtiers de marchandises assermentés sont compétents, sauf désignation par le tribunal d'un commissaire-priseur judiciaire ou d'un autre officier public, pour procéder aux ventes publiques suivantes :

1° Ventes de marchandises en gros autorisées ou ordonnées par le tribunal de commerce dans les conditions prévues aux articles L. 322-14 et suivants ;

2° Ventes des marchandises du débiteur en cas de liquidation judiciaire dans les conditions prévues aux articles L. 642-19 et suivants ;

3° Ventes sur réalisation de gage dans les conditions prévues au deuxième alinéa de l'article 2346 du code civil.

*NOTA :*

*Conformément au I de l'article 37 de l'ordonnance n° 2021-1192 du 15 septembre 2021, ces dispositions entreront en vigueur le 1er janvier 2022.*

**Article L131-29****Création LOI n°2011-850 du 20 juillet 2011 - art. 41**

Les courtiers de marchandises assermentés peuvent être désignés pour procéder aux ventes publiques suivantes :

1° Ventes aux enchères de marchandises en gros ayant fait l'objet d'une saisie administrative ou judiciaire ;

2° Ventes aux enchères de marchandises au détail ordonnées par décision de justice, à défaut de commissaire-priseur judiciaire ;

3° Ventes de marchandises en application de l'article L. 342-11 du code rural et de la pêche maritime ;

4° Ventes aux enchères dans les lieux affectés à l'expédition ou à la vente en gros des denrées et produits provenant de l'agriculture et de la pêche.

**Article L131-30****Création LOI n°2011-850 du 20 juillet 2011 - art. 41**

A peine de radiation définitive de la liste de la cour d'appel, le courtier de marchandises assermenté chargé de procéder à une vente publique ou qui a été requis pour l'estimation de marchandises déposées dans un magasin général ne peut se rendre acquéreur pour son compte des marchandises dont la vente ou l'estimation lui a été confiée.

**Article L131-31****Création LOI n°2011-850 du 20 juillet 2011 - art. 41**

Les droits de courtage pour les ventes publiques ainsi que le montant des vacations dues au courtier de marchandises assermenté pour l'estimation des marchandises déposées dans un magasin général sont fixés dans les conditions prévues par arrêté du ministre chargé du commerce.

Toutefois, en cas de ventes aux enchères publiques judiciaires ou forcées, la rémunération des courtiers de marchandises assermentés est fixée par application du tarif des commissaires-priseurs judiciaires.

### **Sous-section 3 : La discipline des courtiers de marchandises assermentés La discipline des courtiers de marchandises assermentés (Article L131-32)**

**Article L131-32****Modifié par Ordonnance n°2019-964 du 18 septembre 2019 - art. 35 (VD)**

Any breach of the laws and regulations relating to his profession or his duties as a sworn broker and any breach of probity or honor, even relating to facts unrelated to the missions entrusted to him, exposes the sworn broker of goods who would be the author to disciplinary proceedings.

The lapsing of the registration or the striking off of the sworn commodities broker does not preclude prosecution if the acts of which he is accused were committed during the performance of his duties.

The disciplinary penalties are:

1° A warning;

2° Temporary striking off for a maximum period of three years;

3° Radiation with definitive deprivation of the right to be registered on one of the lists provided for in Article L. 131-12 or withdrawal of honorary status.

Prosecutions are carried out by the public prosecutor before the judicial court in whose jurisdiction the sworn

broker exercises his activity. Disciplinary action is prescribed after ten years. Disciplinary decisions are reasoned. They are subject to appeal before the Court of Appeal.

NOTA :

*In accordance with Article 36 of Ordinance No. 2019-964 of September 18, 2019, these provisions come into force on January 1, 2020.*

#### **Sub-section 4: The National Council of Sworn Commodity Brokers (Articles L131-33 to L131-34)**

Article L131-33

**Creation LAW n°2011-850 of July 20, 2011 - art. 41**

Sworn Commodity Brokers are represented by a National Board of Sworn Commodity Brokers.

Article L131-34

**Creation LAW n°2011-850 of July 20, 2011 - art. 41**

The National Council, a public utility establishment endowed with legal personality, is responsible for

: where appropriate, to the public authorities its opinion on these issues;

2° Giving its opinion to the courts of appeal on applications for the office of sworn commodity broker;

3° To keep up to date, at the national level, the list of brokers registered with the courts of appeal, possibly grouping them by specialty;

4° Organizing aptitude examinations;

5° To prevent and reconcile all disputes between sworn brokers of goods as well as to receive complaints made against brokers and to communicate them, if necessary, to the territorially competent public prosecutor.

#### **Sub-section 5: Conditions of application (Article L131-35)**

Article L131-35

**Creation LAW n°2011-850 of July 20, 2011 - art. 41**

A Conseil d'Etat decree sets the conditions for the application of this section, in particular the procedures for registration on the lists of sworn goods brokers, as well as those relating to the taking of the oath, honorary status, disciplinary procedure, organization and operation of the National Council of Sworn Commodity Brokers.

### **Chapter II: Commissioners. (Articles L132-1 to L132-9)**

#### **Section 1: Commissionnaires in general. (Articles L132-1 to L132-2)**

Article L132-1

The agent is the one who acts in his own name or under a company name on behalf of a principal.

The duties and rights of the agent who acts on behalf of a principal are determined by Title XIII of Book III of the Civil Code .

Article L132-2

The commission agent has a privilege on the value of the goods covered by his obligation and on the documents relating thereto for all his commission claims on his principal, even arising from previous operations.

The privileged debt of the broker includes, with the principal, interest, commissions and incidental costs.

#### **Section 2 : Des commissionnaires pour les transports. (Articles L132-3 à L132-9)**

Article L132-3

Le commissionnaire qui se charge d'un transport par terre ou par eau est tenu d'inscrire sur son livre-journal la déclaration de la nature et de la quantité des marchandises, et, s'il en est requis, de leur valeur.

Article L132-4

Il est garant de l'arrivée des marchandises et effets dans le délai déterminé par la lettre de voiture, hors les cas de la force majeure légalement constatée.

Article L132-5

Il est garant des avaries ou pertes de marchandises et effets, s'il n'y a stipulation contraire dans la lettre de voiture, ou force majeure.

Article L132-6

Il est garant des faits du commissionnaire intermédiaire auquel il adresse les marchandises.

## Article L132-7

La marchandise sortie du magasin du vendeur ou de l'expéditeur voyage, s'il n'y a convention contraire, aux risques et périls de celui à qui elle appartient, sauf son recours contre le commissionnaire et le voiturier chargés du transport.

## Article L132-8

La lettre de voiture forme un contrat entre l'expéditeur, le voiturier et le destinataire ou entre l'expéditeur, le destinataire, le commissionnaire et le voiturier. Le voiturier a ainsi une action directe en paiement de ses prestations à l'encontre de l'expéditeur et du destinataire, lesquels sont garants du paiement du prix du transport. Toute clause contraire est réputée non écrite.

## Article L132-9

I. - La lettre de voiture doit être datée.

II. - Elle doit exprimer :

1° La nature et le poids ou la contenance des objets à transporter ;

2° The period within which the transport must be carried out.

III. - It says:

1° The name and domicile of the commission agent through whom the transport takes place, if there is one;

2° The name of the person to whom the goods are addressed;

3° The name and address of the carrier.

IV. - She states:

1° The price of the car;

2° The compensation due for delay.

V. - It is signed by the sender or the commission agent.

VI. - It presents in the margin the marks and numbers of the objects to be transported.

VII. - The consignment note is copied by the commission agent on a listed and initialed register, without interval and immediately.

## Chapter III: Carriers. (Articles L133-1 to L133-9)

### Article L133-1

The valet guarantees the loss of the objects to be transported, except in cases of force majeure.

He is liable for damage other than that resulting from the inherent defect of the thing or force majeure.

Any clause to the contrary inserted in any consignment note, price list or any other document whatsoever, is void.

### Article L133-2

If, as a result of force majeure, the transport is not carried out within the agreed period, there is no reason for compensation against the carrier for delay.

### Article L133-3

**Modified by LAW n°2009-1503 of December 8, 2009 - art. 40**

Receipt of the objects transported extinguishes any action against the valet for damage or partial loss if within three days, not including public holidays, which follow that of this reception, the recipient has not notified the valet, by extrajudicial act or by registered letter, his reasoned protest.

If, within the time limit provided for above, a request for an expert report is made pursuant to Article L. 133-4, this request constitutes a protest without it being necessary to proceed as stated in the first paragraph.

All contrary stipulations are null and void. This last provision is not applicable to international transport.

### Article L133-4

**Modified by Ordinance n°2019-964 of September 18, 2019 - art. 35 (DV)**

In the event of refusal of the objects transported or presented to be transported, or dispute of any nature whatsoever, on the formation or execution of the contract of carriage, or because of an incident occurring during the same course and at the the occasion of the transport, the condition of the objects transported or presented for transport and, as

necessary, their packaging, their weight, their nature, etc., are checked and noted by one or more experts appointed by the chairman of the commercial court or, failing that, by the president of the court and by order issued on request.

The applicant is required, under his responsibility, to call for this expertise, even by simple registered letter or by telegram, all parties likely to be implicated, in particular the sender, the recipient, the carrier and the freight forwarder, and the experts must take an oath, without formal hearing, before the judge who appointed them or before the judge of the court where they are proceeding. However, in case of urgency, the judge seized of the request may dispense with the performance of all or part of the formalities provided for in this paragraph. Mention is made of this exemption in the ordinance.

The deposit or sequestration of the objects in dispute, and then their transport in a public deposit, can be ordered.

The sale may be ordered up to the amount of car or other expenses already incurred. The judge attributes the proceeds of the sale to the party who has advanced the said costs.

**NOTA :**

*In accordance with Article 36 of Ordinance No. 2019-964 of September 18, 2019, these provisions come into force on January 1, 2020.*

#### **Article L133-5**

**Amended by Ordinance No. 2010-1307 of October 28, 2010 - art. 4**

Without prejudice to the provisions of the transport code, the provisions contained in this chapter are applicable to road, river and air carriers.

#### **Article L133-6**

**Modified by LAW n°2007-1787 of December 20, 2007 - art. 26 (V)**

Actions for damages, losses or delays, to which the transport contract may give rise against the carrier, are time-barred within one year, without prejudice to cases of fraud or infidelity.

All other actions to which this contract may give rise, both against the carrier or the commission agent and against the sender or the recipient, as well as those which arise from the provisions of article 1269 of the code of civil procedure, are prescribed in the one year period.

The period of these prescriptions is counted, in the case of total loss, from the day on which the delivery of the goods should have been made, and, in all other cases, from the day on which the goods will have been delivered or offered to the recipient.

The time limit for bringing each recourse action is one month. This prescription runs only from the day of the exercise of the action against the guaranteed.

In the case of transport carried out on behalf of the State, the prescription does not begin to run until the day of the notification of the ministerial decision carrying liquidation or final authorisation.

#### **Article L133-7**

The carrier has privilege over the value of the goods covered by his obligation and over the documents relating thereto for all transport claims, even arising from previous operations, including his principal, the The sender or the consignee remain debtors towards him, insofar as the owner of the goods on which the lien is exercised is involved in the said operations.

The transport receivables covered by the privilege are the actual transport prices, additional remuneration due for ancillary services and immobilization of the vehicle during loading or unloading, costs incurred in the interest of the goods, customs duties, taxes, fees and fines related to a transport operation and interest.

#### **Article L133-8**

**Creation LAW n°2009-1503 of December 8, 2009 - art. 34**

Only the inexcusable fault of the valet or the freight forwarder is equipollent to the fraud. Deliberate fault that involves awareness of the probability of harm and its reckless acceptance without valid reason is inexcusable. Any clause to the contrary is deemed unwritten.

#### **Article L133-9**

**Creation LAW n°2009-1503 of December 8, 2009 - art. 40**

Without prejudice to Articles L. 121-95 and L. 121-96 of the Consumer Code, the provisions of Articles L. 133-1 to L. 133-8 relating to the valet apply to removal transport companies as soon as that the service covered by the removal contract includes in part a transport service.

### **Chapter IV: Commercial agents. (Articles L134-1 to L134-17)**

#### **Article L134-1**

**Modified by Ordinance n°2021-1189 of September 15, 2021 - art. 6**

The commercial agent is an agent who, as an independent profession, without being bound by a contract of hiring of services, is responsible, on a permanent basis, for negotiating and, possibly, concluding contracts of sale, purchase, rental or provision of services, in the name and on behalf of producers, manufacturers, traders or other commercial

agents. He can be a natural person or a legal person and is registered, on his declaration, in the special register of commercial agents.

The provisions of this chapter do not apply to agents whose mission of representation is exercised within the framework of economic activities which are the subject, with regard to this mission, of specific legislative provisions.

**NOTA :**

*In accordance with Article 47 of Ordinance No. 2021-1189 of September 15, 2021, these provisions come into force on January 1, 2023.*

#### Article L134-2

Each party has the right, at its request, to obtain from the other party a signed writing mentioning the content of the agency contract, including that of its amendments.

#### Article L134-3

The commercial agent may accept the representation of new principals without authorisation. However, he cannot accept the representation of a company competing with that of one of his principals without the agreement of the latter.

#### Article L134-4

The contracts entered into between commercial agents and their principals are concluded in the common interest of the parties.

The relationship between the commercial agent and the principal is governed by an obligation of loyalty and a reciprocal duty of information.

The commercial agent must carry out his mandate as a good professional; the principal must put the commercial agent in a position to carry out his mandate.

#### Article L134-5

Any element of remuneration varying with the number or value of business constitutes a commission within the meaning of this chapter.

Articles L. 134-6 to L. 134-9 apply when the agent is remunerated in whole or in part by the commission thus defined.

In the silence of the contract, the commercial agent is entitled to remuneration in accordance with the practices practiced, in the sector of activity covered by his mandate, where he exercises his activity. In the absence of custom, the commercial agent is entitled to reasonable remuneration which takes into account all the elements relating to the operation.

#### Article L134-6

Pour toute opération commerciale conclue pendant la durée du contrat d'agence, l'agent commercial a droit à la commission définie à l'article L. 134-5 lorsqu'elle a été conclue grâce à son intervention ou lorsque l'opération a été conclue avec un tiers dont il a obtenu antérieurement la clientèle pour des opérations du même genre.

Lorsqu'il est chargé d'un secteur géographique ou d'un groupe de personnes déterminé, l'agent commercial a également droit à la commission pour toute opération conclue pendant la durée du contrat d'agence avec une personne appartenant à ce secteur ou à ce groupe.

#### Article L134-7

Pour toute opération commerciale conclue après la cessation du contrat d'agence, l'agent commercial a droit à la commission, soit lorsque l'opération est principalement due à son activité au cours du contrat d'agence et a été conclue dans un délai raisonnable à compter de la cessation du contrat, soit lorsque, dans les conditions prévues à l'article L. 134-6, l'ordre du tiers a été reçu par le mandant ou par l'agent commercial avant la cessation du contrat d'agence.

#### Article L134-8

The commercial agent is not entitled to the commission provided for in Article L. 134-6 if this is due, by virtue of Article L. 134-7, to the previous commercial agent, unless that the circumstances make it fair to share the commission between the commercial agents.

### Article L134-9

The commission is acquired as soon as the principal has executed the transaction or should have executed it by virtue of the agreement concluded with the third party or even as soon as the third party has executed the transaction.

The commission is acquired at the latest when the third party has executed his part of the transaction or should have executed it if the principal had executed his own part. It is paid no later than the last day of the month following the quarter during which it was acquired.

### Article L134-10

The right to commission can only be extinguished if it is established that the contract between the third party and the principal will not be performed and if the non-performance is not due to circumstances attributable to the principal.

The commissions that the commercial agent has already received are refunded if the related right is extinguished.

### Article L134-11

A fixed-term contract which continues to be performed by both parties after its term is deemed to have been transformed into a contract of indefinite duration.

When the agency contract is for an indefinite period, either party may terminate it by giving notice. The provisions of this article are applicable to the fixed-term contract transformed into a contract of indefinite duration. In this case, the calculation of the notice period takes into account the preceding fixed-term period.

The notice period is one month for the first year of the contract, two months for the second year started, three months for the third year started and the following years. Unless otherwise agreed, the end of the notice period coincides with the end of a calendar month.

The parties cannot agree to shorter notice periods. If they agree to longer periods, the period of notice provided for the principal must not be shorter than that provided for the agent.

These provisions do not apply when the contract ends due to serious misconduct on the part of one of the parties or the occurrence of a case of force majeure.

### Article L134-12

In the event of termination of his relations with the principal, the commercial agent is entitled to a compensatory indemnity in compensation for the damage suffered.

The commercial agent loses the right to compensation if he has not notified the principal, within one year of the termination of the contract, that he intends to assert his rights.

The heirs of the commercial agent also benefit from the right to compensation when the termination of the contract is due to the death of the agent.

### Article L134-13

The compensation provided for in Article L. 134-12 is not due in the following cases:

1° Termination of the contract is caused by the serious fault of the commercial agent;

2° The termination of the contract results from the initiative of the agent unless this termination is justified by circumstances attributable to the principal or due to the age, infirmity or illness of the commercial agent, following which the continuation of its activity can no longer be reasonably required;

3° According to an agreement with the principal, the commercial agent assigns to a third party the rights and obligations that he holds under the agency contract.

### Article L134-14

The contract may contain a non-competition clause after the termination of the contract.

This clause must be established in writing and concern the geographical sector and, where applicable, the group of persons entrusted to the commercial agent as well as the type of goods or services for which he exercises representation under the terms of the contract.

The non-competition clause is only valid for a maximum period of two years after the termination of a contract.

### Article L134-15

When the activity of commercial agent is exercised in execution of a written contract concluded between the parties on



a principal basis for another purpose, they may decide in writing that the provisions of this chapter are not applicable to the corresponding party. commercial agency activity.

This waiver is void if the execution of the contract reveals that the commercial agency activity is exercised, in reality, on a principal or determining basis.

## Article L134-16

Any clause or agreement contrary to the provisions of Articles L. 134-2 and L. 134-4 , the third and fourth paragraphs of Article L. 134-11 , and Article L. 134-15 shall be deemed unwritten. or derogating, to the detriment of the commercial agent, from the provisions of the second paragraph of Article L. 134-9 , the first paragraph of Article L. 134-10 , Articles L. 134-12 and L. 134 -13 and the third paragraph of Article L. 134-14 .

## Article L134-17

A Conseil d'Etat decree sets the conditions for the application of this chapter.

## Chapter V: Independent door-to-door sellers. (Articles L135-1 to L135-3)

### Article L135-1

**Creation LAW n°2008-776 of August 4, 2008 - art. 61**

The independent door-to-door seller is the one who sells products or services under the conditions provided for in section 3 of chapter I of title II of book I of the consumer code, excluding door-to-door sales by telephone or by any assimilated technical means, within the framework of a written agreement of agent, commission agent, reseller or broker, binding him to the company which entrusts him with the sale of its products or services.

### Article L135-2

**Creation LAW n°2008-776 of August 4, 2008 - art. 61**

The contract may provide that the seller provides services aimed at developing and leading the network of independent door-to-door sellers, if these are likely to promote the sale of products or services of the company, carried out under the conditions mentioned in Article L. 135-1 . The contract specifies the nature of these services, defines the conditions of exercise and the methods of remuneration.

For the exercise of these services, the seller may under no circumstances exercise an activity of employer, nor be in a contractual relationship with the independent door-to-door sellers that he leads.

No remuneration, in any capacity whatsoever, may be paid by an independent door-to-door seller to another independent door-to-door seller, and no purchases may be made by an independent door-to-door seller from another independent door-to-door seller. .

### Article L135-3

**Creation LAW n°2008-776 of August 4, 2008 - art. 61**

Independent door-to-door sellers whose activity income has reached an amount set by decree during a period defined by the same decree are required to register with the trade and companies register or the special register of commercial agents at from January 1 following this period.

## TITLE IV: Goodwill. (Articles L141-2 to L146-4)

### Chapter I: Of the sale of the goodwill. (Articles L141-2 to L141-32)

#### Section 1: Of the deed of sale. (Articles L141-2 to L141-4)

##### Article L141-1 (repealed)

**Repealed by LAW n°2019-744 of July 19, 2019 - art. 1**

I. - In any act recording an amicable transfer of goodwill, granted even under the condition and in the form of another contract or the contribution of a goodwill to a company, except if the contribution is made to a company wholly owned by the seller, the seller is required to state:

- 1° The name of the previous seller, the date and nature of his deed of acquisition and the price of this acquisition for the intangible elements, the goods and the equipment;
- 2° The statement of privileges and pledges encumbering the fund;
- 3° The turnover that he achieved during the three accounting years preceding that of the sale, this number being reduced to the duration of the possession of the fund if it was less than three years;
- 4° The operating results achieved during the same period;
- 5° The lease, its date, its duration, the name and address of the lessor and the transferor, if applicable.

II. - The omission of the statements prescribed above may, at the request of the purchaser made within one year, result in the nullity of the deed of sale.

### Article L141-2

**Amended by LAW n°2016-1691 of December 9, 2016 - art. 129**

On the day of the sale, the seller and the buyer sign a document presenting the monthly turnover achieved between the end of the last accounting year and the month preceding that of the sale.

For a period of three years from the date the purchaser takes possession of the property, the seller makes available

to him, at his request, all the accounting books he has kept during the three accounting years preceding that of the sale.

Any clause to the contrary is deemed unwritten.

### Article L141-3

The seller is, notwithstanding any stipulation to the contrary, bound by the guarantee due to the inaccuracy of his statements under the conditions laid down by articles 1644 and 1645 of the civil code.

The intermediaries, writers of the deeds and their agents, are held jointly and severally with him if they know the inaccuracy of the statements made.

### Article L141-4

The action resulting from Article L. 141-3 must be brought by the purchaser within one year from the date of taking possession.

## Section 2: Privilege of the seller. (Articles L141-5 to L141-22)

### Article L141-5

**Modified by Ordinance n°2021-1192 of September 15, 2021 - art. 27**

The privilege of the seller of a goodwill only takes place if the sale has been recorded by an authentic deed or under private signature, duly registered.

It relates only to the elements of the fund listed in the sale and in the registration, and in the absence of a precise designation, only to the sign and the commercial name, the right to the lease, the clientele and the goodwill.

Separate prices are established for the intangible elements of the fund, the equipment and the goods.

The privilege of the seller who guarantees each of these prices, or what remains due, is exercised separately on the respective resale prices relating to the goods, equipment and intangible elements of the fund.

Notwithstanding any agreement to the contrary, partial payments other than cash payments are deducted first from the price of the goods, then from the price of the materials.

There is a breakdown of the resale price distributed, if it applies to one or more items not included in the first sale.

#### NOTA :

*In accordance with I of Article 37 of Ordinance No. 2021-1192 of September 15, 2021, these provisions come into force on a date to be set by decree and which may not be later than January 1, 2023.*

### Article L141-6

**Modified by Ordinance n°2021-1192 of September 15, 2021 - art. 27**

The seller's privilege is opposable to third parties by the publicity which is made by registration in a register kept at the registry of the competent commercial court, according to the methods determined by decree in Council of State. When this registration is taken within thirty days of the date of the deed of sale, it takes precedence over any registration taken within the same period by the purchaser; it is opposable to the creditors of the purchaser in safeguard, receivership or compulsory liquidation, as well as to his succession accepted up to the amount of the net assets within the same period.

The resolutive action, established by article 1654 of the civil code, must, to take effect, be mentioned and expressly reserved in the registration. It cannot be exercised to the detriment of third parties after the expiry of the privilege. It is limited, like the privilege, to the only items that were part of the sale.

#### NOTA :

*In accordance with I of Article 37 of Ordinance No. 2021-1192 of September 15, 2021, these provisions come into force on a date to be set by decree and which may not be later than January 1, 2023.*

### Article L141-7

In the event of judicial or amicable resolution of the sale, the seller is required to take back all the elements of the fund which were part of the sale, even those for which his privilege and the resolutive action are extinguished. He is accountable for the price of the goods and equipment existing at the time of his repossession according to the estimate which is made by contradictory, amicable or judicial expertise, under the deduction of what may remain due to him by privilege on the respective prices of the goods and equipment, the surplus, if any, having to remain the pledge of the registered creditors and, failing that, of the unsecured creditors.

### Article L141-8

**Modified by Ordinance n°2021-1192 of September 15, 2021 - art. 27**

The seller who exercises the resolutive action must notify it to the creditors registered on the domicile fund by them declared in their registrations. The judgment can only intervene after one month has elapsed since the notification.

*NOTA :*

*In accordance with I of Article 37 of Ordinance No. 2021-1192 of September 15, 2021, these provisions come into force on a date to be set by decree and which may not be later than January 1, 2023.*

Article L141-9

**Modified by Ordinance n°2021-1192 of September 15, 2021 - art. 27**

The seller who stipulated at the time of the sale that, for lack of payment within the agreed term, the sale would be automatically resolved, or who obtained an amicable resolution from the purchaser, must notify the registered creditors, the domiciles declared in their registrations, the resolution incurred or consented to, which will only become final one month after the notification thus made.

*NOTA :*

*In accordance with I of Article 37 of Ordinance No. 2021-1192 of September 15, 2021, these provisions come into force on a date to be set by decree and which may not be later than January 1, 2023.*

Article L141-10

**Modified by Ordinance n°2021-1192 of September 15, 2021 - art. 27**

When the sale of a fund is pursued at public auction, either at the request of a judicial administrator or a judicial representative, or judicially at the request of any other rightful claimant, the prosecutor must notify the previous sellers, domicile declared in their registrations, with a declaration that, failing them to institute resolutive action within one month of the notification, they have forfeited, with regard to the successful bidder, the right to exercise it.

*NOTA :*

*In accordance with I of Article 37 of Ordinance No. 2021-1192 of September 15, 2021, these provisions come into force on a date to be set by decree and which may not be later than January 1, 2023.*

Article L141-11

**Modified by Law n°2005-845 of July 26, 2005 - art. 1 (V) JORF 27 July 2005 in force on 1 January 2006**

Articles

L. 624-11 to L. 624-18 do not apply to the privilege or the resolutive action of the seller of a business.

Article L141-12

**Modified by LAW n°2019-486 of May 22, 2019 - art. 3**

Subject to the provisions relating to the contribution to a company of goodwill provided for in Articles L. 141-21 and L. 141-22, any sale or transfer of goodwill, granted even under conditions or in the form of a other contract, as well as any allocation of goodwill by sharing or bidding, is, unless it occurs pursuant to Article L. 642-5 , within fifteen days of its date, published at the behest of the purchaser on a medium authorized to receive legal announcements in the department in which the fund is operated and in the form of an extract or notice in the official bulletin of civil and commercial announcements. With regard to fairgrounds, the place of operation is the one where the seller is registered in the trade and companies register.

Article L141-13

**Amended by LAW n°2015-990 of August 6, 2015 - art. 107**

The publication of the extract or the notice made in execution of the preceding article must be, on pain of nullity, preceded either by the registration of the act containing the transfer, except in the case of a authentic deed, or, in the absence of a deed, the declaration prescribed by articles 638 and 653 of the general tax code. This extract must, under the same penalty, report the date, volume and number of the collection, or, in the case of a simple declaration, the date and number of the receipt for this declaration and, in both cases, the indication of the office where these operations took place. It also sets out the date of the deed, the surnames, first names and domiciles of the former and new owner, the nature and registered office of the fund, the stipulated price, including the charges or the valuation used basis for the collection of registration fees, the indication of the deadline set below for objections and an election of domicile within the jurisdiction of the court.

**Article L141-14****Amended by LAW n°2016-1524 of November 14, 2016 - art. 21**

Within ten days following the latest date of the publications provided for in Article L. 141-12, any creditor of the previous owner, whether or not his claim is payable, may lodge at the elected domicile, by extrajudicial act or by registered letter with request for acknowledgment of receipt, opposition to payment of the price. The opposition, on pain of nullity, sets out the amount and the causes of the debt and contains an election of domicile within the jurisdiction of the situation of the fund. The lessor may not oppose for rents in progress or to fall due, and this, notwithstanding any stipulations to the contrary. No amicable or judicial transfer of the price or part of the price is opposable to the creditors who have thus made themselves known within this period.

**Article L141-15****Amended by LAW n°2015-990 of August 6, 2015 - art. 107**

In the event of opposition to the payment of the price, the seller may, in any event, after the expiry of the ten-day period, appeal to the president of the court in summary proceedings in order to obtain authorization to receive his price. Despite the opposition, on the condition of paying to the Caisse des dépôts et consignations, or to the hands of a third party appointed for this purpose, a sufficient sum, fixed by the judge in chambers, to possibly respond to the causes of the opposition in the event that he recognizes himself or is deemed to be a debtor. The deposit thus ordered is specially allocated, in the hands of the third party holder, to the guarantee of the debts for security of which the opposition will have been made and exclusive privilege of any other is attributed to them on the said deposit, without, however, this may result in judicial transport for the benefit of the opponent or opponents in question with regard to the other opposing creditors of the seller, if there are any. From the execution of the interim order, the purchaser is discharged and the effects of the opposition are transferred to the third party holder.

The judge in chambers only grants the authorization requested if he is justified by a formal declaration by the purchaser in question, made under his personal responsibility and of which it is noted, that there is no other opposing creditors than those against whom it is proceeded. The purchaser, by executing the order, is not released from his price with regard to the other opposing creditors prior to the said order, if any.

**Article L141-16****Amended by LAW n°2015-990 of August 6, 2015 - art. 107**

If the opposition was made without title and without cause or is null in form and if there is no proceeding in the main proceedings, the seller may appeal in summary proceedings to the president of the court, for the purpose of to obtain authorization to receive his price, despite the opposition.

**Article L141-17****Amended by LAW n°2016-1524 of November 14, 2016 - art. 21**

The buyer who pays his seller without having carried out the prescribed publications, or before the expiry of the ten-day period, is not released with regard to third parties.

**Article L141-18 (repealed)****Repealed by LAW n°2015-990 of August 6, 2015 - art. 107**

If the sale or transfer of a goodwill includes branches or establishments located on French territory, the registration and publication prescribed in Articles L. 141-6 to L. 141-17 must also be made in an authorized journal. to receive the legal announcements at the place of the headquarters of these branches or establishments.

**Article L141-18****Modified by Ordinance n°2021-1192 of September 15, 2021 - art. 27**

If the sale or transfer of a goodwill includes branches or establishments located on French territory, the publication prescribed in Articles L. 141-7 to L. 141-17 must also be made on a medium authorized to receive legal announcements instead of the headquarters of these branches or establishments.

**NOTA :**

*In accordance with I of Article 37 of Ordinance No. 2021-1192 of September 15, 2021, these provisions come into force on a date to be set by decree and which may not be later than January 1, 2023.*

**Article L141-19****Amended by LAW n°2015-990 of August 6, 2015 - art. 107**

During the twenty days following the publication in the Official Bulletin of the civil and commercial announcements provided for in Article L. 141-12, an authentic copy or one of the originals of the deed of sale is kept, at the elected domicile, at the disposal of any opposing or registered creditor to be consulted without displacement.

**Article L141-20****Amended by LAW n°2015-990 of August 6, 2015 - art. 107**

When the price of the sale is definitively fixed, the purchaser, in the absence of an agreement between the creditors for the amicable distribution of his price, is bound, on the summons of any creditor, and within the following fortnight, to deposit the portion chargeable of the price, and the surplus as and when it becomes due, liable for all oppositions made in its hands as well as registrations encumbering the fund and assignments which have been notified to it.

#### Article L141-21

**Modified by LAW n°2019-486 of May 22, 2019 - art. 3**

Unless it results from a merger or demerger operation subject to the provisions of the fourth paragraph of Article L. 236-2 and Articles L. 236-7 to L. 236-22 or if it is made at a company wholly owned by the seller, any contribution of goodwill made to a company in formation or already existing must be brought to the attention of third parties under the conditions provided for in Articles L. 141-12 to L. 141-18 on a medium authorized to receive legal announcements and by way of insertion in the Official Bulletin of civil and commercial announcements.

In these insertions, the choice of domicile is replaced by the indication of the registry of the commercial court where the creditors of the contributor must make the declaration of their claims.

#### Article L141-22

**Modified by Ordinance n°2021-1192 of September 15, 2021 - art. 27**

Within ten days of the latest date of the publications provided for in Articles L. 141-12 and L. 141-13 , any unregistered creditor of the contributing partner notifies the registry of the commercial court designated in Article L. 141-6, his status as creditor and the amount due to him.

If the partners or one of them fails to submit a request for cancellation of the company or the contribution within the following fortnight, or if the cancellation is not pronounced, the company is bound, jointly and severally with the principal debtor, to the payment of the liabilities declared within the period above and justified.

In the event of contribution of a goodwill by a company to another company, in particular following a merger or a demerger, the provisions of the preceding paragraph are not applicable when there is reason to application of Articles L. 236-14 , L. 236-20 and L. 236-21 or when the option provided for in Article L. 236-22 is exercised .

#### NOTA :

*In accordance with I of Article 37 of Ordinance No. 2021-1192 of September 15, 2021, these provisions come into force on a date to be set by decree and which may not be later than January 1, 2023.*

### **Section 3: The establishment of a time limit allowing employees to submit an offer in the event of the sale of a business in companies which are not subject to the obligation to set up a works council ( Articles L141-23 to L141-27)**

#### Article L141-23

**Amended by LAW n°2015-990 of August 6, 2015 - art. 204**

In companies that are not required to set up a works council pursuant to article L. 2322-1 of the labor code , when the owner of a business wishes to sell it, the employees are informed, and this at the latest two months before the sale, in order to allow one or more employees of the company to present an offer for the acquisition of the fund.

When the owner of the fund is not the operator, this information is notified to the operator of the fund and the period runs from the date of this notification. The operator of the fund immediately informs the employees of this notification, informing them that they can submit a purchase offer.

The operator shall immediately notify the owner of any offer to purchase presented by an employee.

When the fund is operated by its owner, the latter notifies his desire to sell directly to the employees, informing them that they can submit a purchase offer to him, and the period runs from the date of this notification.

The sale may take place before the expiry of the two-month period once each employee has made his decision not to submit an offer known.

When a liability action is initiated, the court seised may, at the request of the public prosecutor, impose a civil fine, the amount of which may not exceed 2% of the amount of the sale.

#### Article L141-24

**Creation LAW n°2014-856 of July 31, 2014 - art. 19**

At their request, employees may be assisted by a representative of the regional chamber of commerce and industry, the regional chamber of agriculture, the regional chamber of trades and crafts with territorial jurisdiction in connection with the regional chambers of the social and solidarity economy and by any person designated by the employees, under conditions defined by decree.

#### Article L141-25

**Amended by LAW n°2015-990 of August 6, 2015 - art. 204**

Employees may be informed by any means, specified by regulation, such as to make certain the date of its receipt by the latter.

When the information is provided by registered letter with acknowledgment of receipt, the date of receipt of the

information is the date of the first presentation of the letter.

Employees are bound by an obligation of discretion with regard to information received pursuant to this section, under the same conditions as those provided for members of works councils in article L. 2325-5 of the labor code. , except with regard to persons whose cooperation is necessary to enable them to present an offer to purchase.

#### Article L141-26

**Amended by LAW n°2015-990 of August 6, 2015 - art. 204**

The sale takes place within a maximum period of two years after the expiry of the period provided for in Article L. 141-23 . Beyond this period, any sale is subject to Articles L. 141-23 to L. 141-25.

#### Article L141-27

**Amended by LAW n°2015-990 of August 6, 2015 - art. 204**

This section does not apply:

1° In the event of the sale of the fund to a spouse, an ascendant or a descendant;

2° To companies subject to a procedure of conciliation, safeguard, reorganization or judicial liquidation governed by Book VI;

3° If, during the twelve months preceding the sale, it has already been the subject of information pursuant to Article 18 of Law No. 2014-856 of July 31, 2014 relating to the social and solidarity economy.

### **Section 4: Advance information for employees allowing them to submit an offer in the event of the sale of a business in companies subject to the obligation to set up a works council (Articles L141-28 to L141-32)**

#### Article L141-28

**Amended by LAW n° 2015-994 of August 17, 2015 - art. 18 (V)**

In companies subject to the obligation to set up a works council pursuant to Article L. 2322-1 of the Labor Code and which, at the end of the last financial year, were in the category of small and medium-sized companies within the meaning of Article 51 of Law No. 2008-776 of August 4, 2008 on the modernization of the economy, when he wants to sell a business, its owner notifies his desire to sell to the operator of the fund .

At the latest at the same time as it proceeds, pursuant to Article L. 2323-33 of the Labor Code, to informing and consulting the works council, the operator of the fund informs employees the notification provided for in the first paragraph of this article and informs them that they can submit a purchase offer.

The operator shall immediately notify the owner of any offer to purchase presented by an employee.

When the fund is operated by its owner, the latter directly notifies the employees of his desire to sell, informing them that they can present him with a purchase offer.

When a liability action is initiated, the court seised may, at the request of the public prosecutor, impose a civil fine, the amount of which may not exceed 2% of the amount of the sale.

In the event of concomitant absences of the works council and of the staff representative, noted in accordance with articles L. 2324-8 and L. 2314-5 of the labor code, the sale is subject to articles L. 141-23 to L 141-27 of this code.

#### Article L141-29

**Creation LAW n°2014-856 of July 31, 2014 - art. 19**

At their request, employees may be assisted by a representative of the regional chamber of commerce and industry, the regional chamber of agriculture, the regional chamber of trades and crafts with territorial jurisdiction in connection with the regional chambers of the social and solidarity economy and by any person designated by the employees, under conditions defined by decree.

#### Article L141-30

**Amended by LAW n°2015-990 of August 6, 2015 - art. 204**

Employees may be informed by any means, specified by regulation, such as to make certain the date of its receipt by the latter.

When the information is provided by registered letter with acknowledgment of receipt, the date of receipt of the information is the date of the first presentation of the letter.

Employees are bound by an obligation of discretion with regard to information received pursuant to this section, under the same conditions as those provided for members of works councils in article L. 2325-5 of the labor code . , except with regard to persons whose cooperation is necessary to enable them to present an offer to purchase.

#### Article L141-31

**Amended by LAW n°2015-990 of August 6, 2015 - art. 204**

The sale is again subject to Articles L. 141-28 to L. 141-30 when it occurs more than two years after the date on which all employees were informed of the sale.

If during this two-year period the works council is consulted, pursuant to Article L. 2323-33 of the Labor Code, on a proposed sale of the business, the course of this two-year period is suspended between the date of referral to the committee and the date on which it delivers its opinion and, failing that, until the date on which the time limit for delivering this opinion expires.

#### Article L141-32

**Amended by LAW n°2015-990 of August 6, 2015 - art. 204**

This section does not apply:

1° In the event of the sale of the fund to a spouse, an ascendant or a descendant;

2° To companies subject to a procedure of conciliation, safeguard, reorganization or judicial liquidation governed by Book VI;

3° If, during the twelve months preceding the sale, it has already been the subject of information pursuant to Article 18 of Law No. 2014-856 of July 31, 2014 relating to the social and solidarity economy.

### **Chapter II: Pledge of goodwill. (Articles L142-1 to L142-5)**

#### Article L142-1

**Modified by Ordinance n°2021-1192 of September 15, 2021 - art. 27**

Goodwill may be subject to pledges, without other conditions and formalities than those prescribed by this chapter and chapter III below.

The pledging of a goodwill does not give the secured creditor the right to be awarded the goodwill in payment and up to a due amount.

**NOTA :**

*In accordance with I of Article 37 of Ordinance No. 2021-1192 of September 15, 2021, these provisions come into force on a date to be set by decree and which may not be later than January 1, 2023.*

#### Article L142-2

**Modified by Ordinance n°2021-1192 of September 15, 2021 - art. 27**

The only ones liable to be included in the pledge subject to the provisions of this chapter as forming part of a goodwill are: the sign and trade name, the right to the lease, customers and goodwill, commercial furniture, the equipment or tools used to operate the fund, patents, licenses, trademarks, industrial designs and models, and generally the intellectual property rights attached thereto.

The certificate of addition subsequent to the pledge which includes the patent to which it applies follows the fate of this patent and forms part, like it, of the constituted pledge.

In the absence of express and precise designation in the act which constitutes it, the pledge only includes the sign and the commercial name, the right to the lease, the customers and the goodwill.

If the pledge relates to a goodwill and its branches, these must be designated by the precise indication of their head office.

**NOTA :**

*In accordance with I of Article 37 of Ordinance No. 2021-1192 of September 15, 2021, these provisions come into force on a date to be set by decree and which may not be later than January 1, 2023.*

#### Article L142-3

**Modified by Ordinance n°2021-1192 of September 15, 2021 - art. 27**

The pledge contract is evidenced by an authentic deed or by a private deed.

The right of preference resulting from the pledge contract is enforceable against third parties by the sole fact of registration in a register kept at the registry of the competent commercial court, according to the terms and conditions determined by decree in Council of State.

**NOTA :**

*In accordance with I of Article 37 of Ordinance No. 2021-1192 of September 15, 2021, these provisions come into force on a date to be set by decree and which may not be later than January 1, 2023.*

#### Article L142-4

**Modified by Ordinance n°2021-1192 of September 15, 2021 - art. 27**

In the event of reorganization or judicial liquidation, Articles L. 632-1 to L. 632-4 are applicable to pledges of goodwill.

**NOTA :**

*In accordance with I of Article 37 of Ordinance No. 2021-1192 of September 15, 2021, these provisions come into force on a date to be set by decree and which may not be later than January 1, 2023.*

## Article L142-5

Modified by Ordinance n°2021-1192 of September 15, 2021 - art. 27

The rank of secured creditors among themselves is determined by the date of their registration. Creditors registered on the same day compete.

## NOTA :

*In accordance with I of Article 37 of Ordinance No. 2021-1192 of September 15, 2021, these provisions come into force on a date to be set by decree and which may not be later than January 1, 2023.*

**Chapter III: Provisions common to the sale and pledge of goodwill. (Articles L143-1 to L143-23)****Section 1: Realization of the privilege of the seller and the pledge of the goodwill and the purge of the registered debts. (Articles L143-1 to L143-15-1)**

## Article L143-1

Modified by Ordinance n°2021-1192 of September 15, 2021 - art. 27

In the event of the transfer of the goodwill, the registered debts become due automatically if the owner of the fund has not informed the registered creditors, at least fifteen days in advance, of his intention to move the fund and the new headquarters. that he intends to give her.

Within a fortnight of the notice notified to him or within a fortnight of the day on which he became aware of the move, the most diligent registered creditor shall have the new registered office of the fund mentioned in the margin of the initial registration.

The displacement of the goodwill, without the consent of the seller or the registered creditors, may, if it results in a depreciation of the goodwill, make their claims payable.

The registration of a pledge may also make payable previous debts resulting from the operation of the fund.

Requests for forfeiture of term made under the two preceding paragraphs before the commercial court are subject to the rules of procedure enacted by the fourth paragraph of Article L. 143-4 .

## NOTA :

*In accordance with I of Article 37 of Ordinance No. 2021-1192 of September 15, 2021, these provisions come into force on a date to be set by decree and which may not be later than January 1, 2023.*

## Article L143-2

Modified by Ordinance n°2021-1192 of September 15, 2021 - art. 27

The owner who pursues the termination of the lease of the building in which operates a business encumbered with registrations must notify his request to the previously registered creditors, at the domicile declared by them in their registrations. The judgment can only intervene after one month has elapsed since the notification.

The amicable termination of the lease only becomes final one month after the notification which has been made to the registered creditors, at the domiciles declared by them in their registrations.

## NOTA :

*In accordance with I of Article 37 of Ordinance No. 2021-1192 of September 15, 2021, these provisions come into force on a date to be set by decree and which may not be later than January 1, 2023.*

## Article L143-3

Modified by Ordinance n°2021-1192 of September 15, 2021 - art. 27

I.-The creditor who initiates a seizure-sale procedure or the debtor against whom it is initiated may request, before the commercial court in whose jurisdiction the fund operates, the sale of the business of the seized with the equipment and the goods that depend on it.

II.- When proceedings are brought by the creditor, the latter definitively renounces the benefit of the seizure-sale procedure. The commercial court then orders that, in the absence of payment within the time allowed to the debtor, the sale of the fund takes place at the request of this creditor, after the completion of the formalities provided for in Article L. 143-6.

III.-When proceedings are brought by the debtor, the judgment ordering the sale of the business suspends the seizure-sale procedure. If the creditor asks to continue the sale of the fund, the commercial court orders that, in the absence of payment within the time allowed to the debtor, the sale of the fund takes place at the request of this creditor, after the completion of the formalities provided for in article L.143-6. On the other hand, if the creditor does not request it, the commercial court sets the time within which the sale of the fund must take place at the request of the debtor, according to the formalities provided for in Article L. 143-6. If the debtor does not proceed with the sale within this period, the seizure-sale procedure automatically resumes its effects.

## NOTA :

*In accordance with I of Article 37 of Ordinance No. 2021-1192 of September 15, 2021, these provisions come into force on a date to be set by decree and which may not be later than January 1, 2023.*



## Article L143-4

The court appoints, if necessary, a provisional administrator of the fund, fixes the upset prices, determines the main conditions of the sale, and appoints the public officer who draws up the specifications.

Extraordinary publicity, when it is useful, is governed by the judgment or, failing that, by order of the president of the commercial court issued on request.

The latter may, by the decision rendered, authorize the prosecutor, if there is no other registered or objecting creditor, and except for deduction of privileged costs for the benefit of those entitled, to receive the price directly and on his simple receipt, either from the purchaser or from the selling public officer, as the case may be, as a deduction or up to the amount of his claim in principal, interest and costs.

The commercial court decides, within fifteen days of the first hearing, by a non-appealable judgment, enforceable immediately. The appeal of the judgment is suspensive. It is formed within a fortnight of its notification to the party and judged by the court within a month. The judgment is enforceable immediately.

## Article L143-5

**Modified by Ordinance n°2021-1192 of September 15, 2021 - art. 27**

Creditors registered on a goodwill may also, even by virtue of securities under private signature, order the sale of this fund, eight days after summons to pay given to the debtor and to the third party holder, if necessary, remained unsuccessful.

The request is brought before the commercial court in whose jurisdiction the said fund operates, which decides as stated in Article L. 143-4.

### NOTA :

*In accordance with I of Article 37 of Ordinance No. 2021-1192 of September 15, 2021, these provisions come into force on a date to be set by decree and which may not be later than January 1, 2023.*

## Article L143-6

**Modified by Ordinance n°2021-1192 of September 15, 2021 - art. 27**

The prosecutor summons the owner of the fund and the creditors registered prior to the decision which ordered the sale, at the domicile declared by them in their registrations, at least fifteen days before the sale, to take communication of the specifications, to provide their statements and observations and to attend the auction, if they wish.

The sale takes place at least ten days after the affixing of posters indicating: the names, professions, domiciles of the prosecutor and of the owner of the fund, the decision by virtue of which one acts, an election of domicile in the place where the seat of the commercial court in whose jurisdiction the fund is operated, the various components of the said fund, the nature of its operations, its location, the price increases, the place, day and time of the auction, the name and domicile of the commissioned public officer and custodian of the specifications.

These posters must be affixed, at the behest of the public officer, to the main door of the building and of the town hall of the municipality where the fund is located, of the commercial court in whose jurisdiction the fund is located, and at the door of the office of the committed public officer.

The poster is inserted ten days before the sale on a medium authorized to receive legal announcements in the department in which the fund is located.

Advertising is evidenced by a mention made in the minutes of sale.

### NOTA :

*In accordance with I of Article 37 of Ordinance No. 2021-1192 of September 15, 2021, these provisions come into force on a date to be set by decree and which may not be later than January 1, 2023.*

## Article L143-7

**Amended by LAW n°2015-990 of August 6, 2015 - art. 107**

It is ruled, if necessary, on the means of nullity of the sale procedure prior to the auction, and on the costs, by the president of the court. These means must be opposed, on pain of forfeiture, at least eight days before the auction. The fourth paragraph of article L. 143-4 is applicable to the order issued by the president.

## Article L143-8

The commercial court, seized of the request for payment of a claim relating to the operation of a business, may, if it pronounces a judgment and if the creditor so requires, order by the same judgment the sale of the fund. It decides in the terms of the first and second paragraphs of Article L. 143-4 and sets the deadline after which, in the absence of payment, the sale may be continued. The provisions of the fourth paragraph of article L. 143-4 and of articles L. 143-6 and L. 143-7 are applicable to the sale thus ordered by the commercial court.

**Article L143-9****Amended by LAW n°2015-177 of February 16, 2015 - art. 12 (V)**

If the successful bidder fails to perform the terms of the auction, the property is sold on repeat bidding, in accordance with the forms prescribed by Articles L. 143-6 and L. 143-7 .

The defaulting buyer is liable, towards the creditors of the seller and the seller himself, for the difference between his price and that of the resale on repetition of the auction, without being able to claim the excess if there is any.

**Article L143-10****Modified by Ordinance n°2021-1192 of September 15, 2021 - art. 27**

There shall be no separate sale of one or more elements of a business encumbered with registrations, pursued either by seizure-sale, or by virtue of the provisions of this chapter, or by application of the second paragraph of the Article 2346 of the Civil Code, only ten days at the earliest after the notification of the lawsuit to the creditors who registered at least fifteen days before the said notification, at the domicile declared by them in their registrations. During this ten-day period, any registered creditor, whether or not his debt has expired, may summon the interested parties before the commercial court in whose jurisdiction the fund is operated, to request that the sale of all the elements of the fund, at the request of the prosecutor or at his own request, articles L. 143-3 to L. 143-7.

The court orders the sale of the goodwill if the separate sale of one or more of its elements jeopardizes the value of the goodwill.

The equipment and the goods are sold at the same time as the fund on separate upset prices, or for separate prices if the specifications oblige the buyer to take them to the opinion of experts.

There is a price breakdown for the unencumbered fund items listed.

**NOTA :**

*In accordance with I of Article 37 of Ordinance No. 2021-1192 of September 15, 2021, these provisions come into force on a date to be set by decree and which may not be later than January 1, 2023.*

**Article L143-11****Amended by LAW n°2015-990 of August 6, 2015 - art. 107**

No higher bid is allowed when the sale has taken place in the forms prescribed by articles L. 143-3 to L. 143-8 , L. 143-10 and L. 143-13 to L. 143-15.

**Article L143-12****Modified by Ordinance n°2021-1192 of September 15, 2021 - art. 27**

Preferential rights of registered creditors follow the fund into whatever hands it passes.

When the sale of the fund has not taken place at public auction in accordance with the articles mentioned in Article L. 143-11, the purchaser who wishes to guarantee himself against legal action by registered creditors is bound, on pain of forfeiture, before legal action or within fifteen days of the summons to pay to him, to make notifications to all registered creditors, under conditions defined by decree.

**NOTA :**

*In accordance with I of Article 37 of Ordinance No. 2021-1192 of September 15, 2021, these provisions come into force on a date to be set by decree and which may not be later than January 1, 2023.*

**Article L143-13****Modified by Ordinance n°2021-1192 of September 15, 2021 - art. 27**

Any creditor registered on a goodwill may, when Article L. 143-11 is not applicable, request its public auction, by offering to bring the main price, not including the equipment and the goods, to a tenth in addition and to give security for the payment of the prices and charges or to justify sufficient solvency.

This requisition, signed by the creditor, must be, on pain of forfeiture, notified to the purchaser and to the debtor previous owner within fifteen days of the notifications, with summons before the commercial court of the situation of the fund, to see a ruling, in the event dispute, on the validity of the higher bid, on the admissibility of the deposit or the solvency of the higher bidder, and have it ordered that the fund will be auctioned off with the equipment and goods that depend on it, and that the outbid purchaser will be required to communicate his title and the deed of lease or transfer of lease to the appointed public officer. The fortnight deadline above is not likely to

**NOTA :**

*In accordance with I of Article 37 of Ordinance No. 2021-1192 of September 15, 2021, these provisions come into force on a date to be set by decree and which may not be later than January 1, 2023.*

**Article L143-14****Modified by Ordinance n°2021-1192 of September 15, 2021 - art. 27**

From the service of the higher bid, the purchaser, if he has returned to possession of the fund, is by right

sequestrator administrator and can only perform acts of administration. However, he may ask the commercial court or the urgent applications judge, depending on the case, at any time during the procedure, to appoint another director. This request can also be made by any creditor. The higher bidder may not, even by paying the amount of the tender, prevent the public auction by withdrawing, except with the consent of all the registered creditors. The formalities of the procedure and of the sale are carried out at the behest of the higher bidder and, in his absence, of any registered creditor or of the purchaser, at the expense, Articles L. 143-4 , L. 143-5 to L. 143-7 and by the fourth paragraph of Article L. 143-10 . In the absence of a bid, the higher-bidding creditor is declared the successful bidder.

**NOTA :**

*In accordance with I of Article 37 of Ordinance No. 2021-1192 of September 15, 2021, these provisions come into force on a date to be set by decree and which may not be later than January 1, 2023.*

## Article L143-15

The successful bidder is required to take the equipment and the goods existing at the time of taking possession, at the prices fixed by an amicable or judicial expertise, contradictorily between the outbid purchaser, his seller and the successful bidder.

He is required, beyond his hammer price, to reimburse the dispossessed purchaser for the costs and fair costs of his contract, those of the notifications, those of registration and advertising provided for by articles L. 141-6 to L. 141-18 , and, to whom it may concern, those made to achieve resale.

Article L. 143-9 is applicable to the sale and the adjudication by higher bid.

The higher bidder, who becomes the successful bidder following the resale on higher bid, has his recourse as of right against the seller for the reimbursement of what exceeds the price stipulated by his title and for the interest of this excess from the day of each payment.

## Article L143-15-1

**Creation Ordinance n°2021-1192 of September 15, 2021 - art. 27**

The order of preference between the creditors registered on the goodwill and the creditors registered on an element of the goodwill is determined by the dates on which the respective titles were published.

Creditors registered on the same day compete.

**NOTA :**

*In accordance with I of Article 37 of Ordinance No. 2021-1192 of September 15, 2021, these provisions come into force on a date to be set by decree and which may not be later than January 1, 2023.*

## Section 2: Registration and deregistration formalities. (Articles L143-16 to L143-19)

### Article L143-16

**Modified by Ordinance n°2021-1192 of September 15, 2021 - art. 27**

The registration and cancellation of the preferential rights of registered creditors are subject to formalities, the terms of which are set by decree in the Conseil d'Etat.

**NOTA :**

*In accordance with I of Article 37 of Ordinance No. 2021-1192 of September 15, 2021, these provisions come into force on a date to be set by decree and which may not be later than January 1, 2023.*

### Article L143-17

**Modified by Ordinance n°2021-1192 of September 15, 2021 - art. 27**

In addition to the registration formalities mentioned in Article L. 143-16 , sales or transfers of goodwill including product or service brands, industrial designs or models, as well as pledges of funds that include patents inventions or licenses, trademarks or designs and models, must be registered with the National Institute of Industrial Property, on pain of unenforceability vis-à-vis third parties, sales, assignments or pledges insofar as they apply to patents and licenses, product or service marks, industrial designs and models.

Invention patents included in the transfer of a goodwill remain subject for their transmission to the rules enacted in Articles L. 613-8 et seq. of the Intellectual Property Code.

**NOTA :**

*In accordance with I of Article 37 of Ordinance No. 2021-1192 of September 15, 2021, these provisions come into force on a date to be set by decree and which may not be later than January 1, 2023.*

**Article L143-18****Modified by Ordinance n°2021-1192 of September 15, 2021 - art. 27**

If the title giving rise to the registered lien or pledge is to order, negotiation by way of endorsement results in the translation of the lien or pledge.

*NOTA :*

*In accordance with I of Article 37 of Ordinance No. 2021-1192 of September 15, 2021, these provisions come into force on a date to be set by decree and which may not be later than January 1, 2023.*

**Article L143-19****Modified by Ordinance n°2021-1192 of September 15, 2021 - art. 27**

Listing guarantees at the same rank as the principal two years of interest.

*NOTA :*

*In accordance with I of Article 37 of Ordinance No. 2021-1192 of September 15, 2021, these provisions come into force on a date to be set by decree and which may not be later than January 1, 2023.*

**Article L143-20 (repealed)****Repealed by Ordinance n°2021-1192 of September 15, 2021 - art. 27**

The registrations are deleted, either with the consent of the interested parties and having the capacity for this purpose, or by virtue of a judgment passed in the force of res judicata.

In the absence of a judgment, the total or partial cancellation can only be carried out by the clerk on the filing of an authentic instrument or under private seal duly registered consenting to the cancellation given by the creditor or his duly subrogated assignee and justifying his rights.

The total or partial cancellation of the registration taken at the National Institute of Industrial Property is carried out on production of the certificate of cancellation issued by the clerk of the commercial court.

**Section 3: Intermediaries and Price Allocation. (Articles L143-21 to L143-23)****Article L143-21****Modified by LAW n° 2015-1786 of December 29, 2015 - art. 97**

Any third party holder of the purchase price of a goodwill at which domicile has been elected must distribute it within a period of one hundred and five days from the date of the deed of sale.

However, when the declaration mentioned in the first paragraph of 3 and 3 bis of Article 201 of the General Tax Code has not been filed within the period provided for in the same 3 and 3 bis, the period within which the distribution of funds must be carried out is extended by sixty days.

At the end of these periods, the most diligent party may appeal to the competent court of the place of election of domicile, which orders either the deposit with the Caisse des dépôts et consignations, or the appointment of a distributing escrow.

*NOTA :*

*These provisions apply to transfers subject to publication as of January 1, 2016.*

**Article L143-22****Modified by Ordinance n°2019-964 of September 18, 2019 - art. 35 (DV)**

When the confiscation of a goodwill is ordered by a repressive court in application of articles 225-16, 225-19 and 225-22 of the criminal code and 706-39 of the code of criminal procedure, the State must carry out the sale of the confiscated fund according to the forms provided for by this title within a period of one year, unless this period is exceptionally extended by order of the president of the judicial court. He is only liable to creditors up to the sale price of this fund.

This sale must be made in the form of a legal announcement made at least forty-five days before the sale, whether it takes place by auction or in amicable form.

Security interests registered after the date of mention of the initiation of proceedings for one of the offenses referred to in the first paragraph are null and void unless decided otherwise by the court.

The administrative authority may, at any time, request that the rent be fixed at a rate corresponding to the rental value of the premises.

When the owner of the confiscated fund is at the same time the owner of the premises in which the fund is operated, a lease must be established, the conditions of which are fixed, in the absence of an amicable agreement, by the president of the court of law, who decides within the forms provided for leases of buildings or premises for commercial, industrial or artisanal use.

NOTA :

*In accordance with Article 36 of Ordinance No. 2019-964 of September 18, 2019, these provisions come into force on January 1, 2020.*

#### Article L143-23

**Modified by Ordinance n°2019-1169 of November 13, 2019 - art. 13**

A Conseil d'Etat decree determines the measures for implementing Chapters I and II above and this chapter, in particular the emoluments to be allocated to the clerks of the commercial courts, the conditions under which are carried out, at the National Institute of industrial property, registrations, cancellations and issuances of negative statements or certificates concerning sales, assignments or pledges of business assets which include patents of invention or licenses, product or service marks, designs and models industrial.

It also determines the fees to be collected by the Conservatory of Arts and Crafts, for the service of the National Institute of Industrial Property, on registrations and mentions of prior art, subrogation and cancellation, statements of registrations or certificates that none exist.

NOTA :

*Under the terms of I of Article 15 of Ordinance No. 2019-1169 of November 13, 2019, the provisions resulting from this Ordinance come into force on the date of entry into force of the decree issued for its application and at the latest. late December 15, 2019.*

### Chapter IV: Leasing-management. (Articles L144-1 to L144-13)

#### Article L144-1

Notwithstanding any clause to the contrary, any contract or agreement by which the owner or the operator of a goodwill or a craft establishment concedes its rental in whole or in part to a manager who operates it at his own risk and peril is governed by the provisions of this chapter.

#### Article L144-2

**Modified by Ordinance n°2021-1189 of September 15, 2021 - art. 7**

The lessee-manager has the status of merchant. He is subject to all the obligations arising therefrom.

When the fund is a craft establishment, the tenant-manager is registered as a business in the trades and crafts sector in the national business register and is subject to all the obligations arising therefrom.

NOTA :

*In accordance with Article 47 of Ordinance No. 2021-1189 of September 15, 2021, these provisions come into force on January 1, 2023.*

#### Article L144-3 (repealed)

**Repealed by LAW n°2019-744 of July 19, 2019 - art. 2**

Natural or legal persons who grant a management lease must have operated the business or craft establishment put under management for at least two years.  
**Modified by Ordinance n°2004-274 of March 25, 2004 - art. 10 () JORF March 27, 2004**

#### Article L144-4 (repealed)

**Repealed by LAW n°2019-744 of July 19, 2019 - art. 2**

The period provided for in Article L. 144-3 may be waived or reduced by order of the president of the tribunal de grande instance issued at the simple request of the person concerned, after hearing the public prosecutor, in particular when the latter justifies that it is unable to operate his fund personally or through agents.

#### Article L144-5 (repealed)

**Repealed by LAW n°2019-744 of July 19, 2019 - art. 2**

**Amended by LAW n°2014-1104 of October 1, 2014 - art. 5**

Article L. 144-3 is not applicable:

1° To the State;

2° To local authorities;

3° To credit institutions and finance companies;

4° To adults subject to a measure of legal protection or to persons subject to psychiatric care due to mental disorders under the conditions set out in Articles L. 3211-2 and L. 3212-1 to L 3212-12 of the Public Health Code, with regard to the funds they owned before the legal protection measure or before the occurrence of hospitalization;

5° To the heirs or legatees of a deceased tradesman or craftsman, as well as to the beneficiaries of a division of ancestry, with regard to the funds collected;

6° To the public establishment created by Article L. 325-1 of the Town Planning Code;

7° To the beneficiary spouse of the business or craft fund following the dissolution of the matrimonial regime, when this spouse participated in its operation for at least two years before the dissolution of the matrimonial regime or its division.  
;

8° To the business lessor, when the main purpose of the management lease is to ensure, under an exclusive contract, the retail sale of products manufactured or distributed by itself;

9° To lessors of cinema, theater and music hall businesses;

10° To holders of a parking permit mentioned in article L. 3121-1 of the transport code in order to ensure the operation of this permit in accordance with article L. 3121-1-2 of the same code .

#### Article L144-6

**Modified by LAW n°2019-486 of May 22, 2019 - art. 3**

At the time of the lease-management, the debts of the lessor of the fund relating to the operation of the fund may be declared immediately payable by the commercial court of the situation of the fund, if it considers that the lease-management jeopardizes their recovery.

The action must be introduced, on pain of foreclosure, within three months from the publication of the management contract on a medium authorized to receive legal announcements.

#### Article L144-7

**Amended by LAW n°2016-1691 of December 9, 2016 - art. 144 (V)**

Until the publication of the lease-management contract, the lessor of the fund is jointly and severally liable with the lessee-manager for the debts contracted by the latter during the operation of the fund.

#### Article L144-8

**Modified by LAW n°2019-744 of July 19, 2019 - art. 2**

Article L. 144-7 does not apply to lease-management contracts entered into by legal representatives, responsible, in any capacity whatsoever, for the administration of a business, provided that they have been authorized for the purposes of said contracts by the authority from which they hold their mandate and that they have complied with the publicity measures provided for.

#### Article L144-9

The end of the lease-management makes immediately payable the debts relating to the operation of the fund or the craft establishment, contracted by the tenant-manager during the term of the management.

#### Article L144-10

Any lease-management contract or any other agreement containing similar clauses, granted by the owner or operator of a business that does not meet the conditions provided for in the articles above, is void. However, the contractors cannot invoke this nullity against third parties.

The nullity provided for in the preceding paragraph entails with regard to the contracting parties the forfeiture of the rights that they could possibly hold from the provisions of Chapter V of this title regulating the relations between landlords and tenants with regard to the renewal of rental leases. buildings or premises for commercial, industrial or artisanal use.

#### Article L144-11

If the lease-management contract is accompanied by a sliding scale clause, the revision of the rent may, notwithstanding any agreement to the contrary, be requested each time that, by virtue of this clause, this rent is increased or reduced by more than a quarter of the price previously fixed contractually or by judicial decision.

If one of the elements retained for the calculation of the sliding scale clause disappears, the revision can only be requested and continued if the economic conditions have changed to the point of causing a variation of more than a quarter of the rental value of the fund.

#### Article L144-12

The party wishing to request revision must notify the other party by registered letter with acknowledgment of receipt or by extrajudicial document.

In the absence of an amicable agreement, the proceeding is brought and judged in accordance with the provisions provided for in terms of revision of the price of rental leases of buildings or premises for commercial or industrial use.

The judge must, taking into account all the elements of appreciation, adapt the game of the sliding scale to the fair rental value on the day of the notification. The new price is applicable from this same date, unless the parties have agreed before or during the proceedings on an earlier or more recent date.

## Article L144-13

The provisions of articles L. 144-11 and L. 144-12 are not applicable to leasing operations in terms of business assets or craft establishments mentioned in 3° of article 1 of law no. 66-455 of July 2, 1966 relating to companies practicing leasing. The provisions of article L. 144-9 are not applicable when the lessee-manager who has leased a business or a craft establishment under a financial lease contract exercises the purchase option.

## Chapter V: Commercial lease. (Articles L145-1 to L145-60)

### Section 1: Scope. (Articles L145-1 to L145-3)

#### Article L145-1

**Modified by Ordinance n°2021-1189 of September 15, 2021 - art. 8**

I. - The provisions of this chapter apply to the leases of the buildings or premises in which a fund is operated, whether this fund belongs either to a merchant or to an industrialist registered in the trade and companies register, or to a head a company in the trades and crafts sector registered in the national register of companies, whether or not carrying out acts of commerce, and in addition:

1° To leases of premises or buildings ancillary to the operation of a business when their deprivation is likely to compromise the operation of the business and they belong to the owner of the premises or building where located the main establishment. In the event of multiple owners, the ancillary premises must have been rented in full view of the lessor with a view to joint use;

2° To leases of bare land on which were built - either before or after the lease - buildings for commercial, industrial or craft use, provided that these buildings were erected or operated with the express consent of the owner.

II. - If the fund is operated in the form of lease-management pursuant to Chapter IV of this title, the owner of the fund nevertheless benefits from these provisions without having to prove registration in the trade and companies register or in the national register of businesses as a business in the trades and crafts sector.

III. - If the lease is granted to several lessees or co-owners, the operator of the business or craft business benefits from the provisions of this chapter, even in the absence of registration in the trade and companies register or in the national register of companies as a business in the trades and crafts sector of its co-preneurs or non-operating co-divisors of the fund.

In the event of the death of the lease holder, these same provisions apply to his heirs or assigns who, although not operating a business or artisanal fund, request the maintenance of the registration of their successor in title for the needs of his estate.

#### NOTA :

*In accordance with Article 47 of Ordinance No. 2021-1189 of September 15, 2021, these provisions come into force on January 1, 2023.*

#### Article L145-2

**Amended by LAW n°2014-626 of June 18, 2014 - art. 1**

I.-The provisions of this chapter also apply:

1° Leases of premises or buildings housing educational establishments;

2° To leases granted to municipalities for buildings or premises assigned, either at the time of the rental, or subsequently and with the express or tacit consent of the owner, to services operated under direct management;

3° To leases of buildings or main or accessory premises, necessary for the pursuit of the activity of public companies and public establishments of an industrial or commercial nature, within the limits defined by the laws and regulations which govern them and provided that these leases do not include any influence on the public domain;

4° Subject to the provisions of Article L. 145-26 to leases of premises or buildings belonging to the State, local authorities and public establishments, in the event that these premises or buildings meet the provisions of Article L. 145-1 or at 1° and 2° above;

5° To leases of buildings housing either cooperative societies having the commercial form or a commercial object, or cooperative credit societies, or savings and provident funds;

6° To the leases of the premises granted to artists admitted to contribute to the social security fund of the artists' house and recognized authors of graphic and plastic works, as defined by article 98 A of annex III of the code General of Taxes ;

7° Notwithstanding article 57 A of law n° 86-1290 of December 23, 1986 tending to promote rental investment, access to ownership of social housing and the development of land supply, to leases premises assigned to exclusively professional use if the parties have agreed to this regime.

II.-However, the provisions of this chapter are not applicable to authorizations for temporary occupation granted by the administration on a building acquired by it following a declaration of public utility.

III.-In the event of exercise of the right of pre-emption on a commercial lease, an artisanal fund or a business fund pursuant to the first paragraph of Article L. 214-2 of the Town Planning Code, the lease of the premises or the building remains subject to this chapter.

Failure to operate cannot be invoked by the lessor to terminate the commercial lease within the period provided for in the same article L. 214-2 for its retrocession to a new operator.

## Article L145-3

The provisions of this chapter do not apply to emphyteutic leases, except with regard to the revision of the rent. However, they apply, in the cases provided for in Articles L. 145-1 and L. 145-2, to leases entered into by lessees, provided that the duration of the renewal granted to their sub-tenants does not effect of extending the occupation of the premises beyond the expiry date of the emphyteutic lease.

## Section 2: Duration. (Articles L145-4 to L145-7-1)

### Article L145-4

**Modified by LAW n°2018-1021 of November 23, 2018 - art. 28**

The duration of the rental contract cannot be less than nine years.

However, the lessee has the right to give notice at the end of a three-year period, at least six months in advance, by registered letter with acknowledgment of receipt or by extrajudicial act. Leases concluded for a period of more than nine years, leases of premises built for a single use, leases of premises for exclusive use as offices and those of storage premises mentioned in 3° of III of Article 231 ter of the General Tax Code may contain contrary provisions.

The lessor has the same option, in the forms and time limits of article L. 145-9, if he intends to invoke the provisions of articles L. 145-18, L. 145-21, L. 145-23-1 and L. 145-24 in order to build, rebuild or raise the existing building, to reallocate the accessory residential premises to this use, to transform an existing building into main residential use by reconstruction, renovation or rehabilitation or to carry out work prescribed or authorized as part of a building restoration operation and in the event of demolition of the building as part of an urban renewal project.

The lessee who has requested to benefit from his retirement rights under the social scheme to which he is affiliated or who has been admitted to the benefit of a disability pension granted under this social scheme has the option of giving notice in the forms and deadlines provided for in the second paragraph of this article. The same applies to his successors in the event of the lessee's death.

The provisions of the preceding paragraph are applicable to the sole shareholder of a one-person limited liability company, or to the majority manager for at least two years of a limited liability company, when the latter is the holder of the lease.

### Article L145-5

**Amended by LAW n°2014-626 of June 18, 2014 - art. 3**

The parties may, when entering the lessee's premises, derogate from the provisions of this chapter provided that the total duration of the lease or successive leases does not exceed three years. At the end of this period, the parties can no longer conclude a new lease derogating from the provisions of this chapter to operate the same fund in the same premises.

If, at the end of this period, and at the latest at the end of a period of one month from the expiry date, the lessee remains and is left in possession, a new lease takes place, the term of which The effect is governed by the provisions of this chapter.

The same applies, at the end of this period, in the event of express renewal of the lease or conclusion, between the same parties, of a new lease for the same premises.

The provisions of the two previous paragraphs are not applicable in the case of a seasonal rental.

When the lease is concluded in accordance with the first paragraph, an inventory is drawn up when a tenant takes possession of the premises and when they are returned, jointly and amicably by the parties or by a third party mandated by them, and attached to the rental agreement.

If the inventory cannot be drawn up under the conditions provided for in the penultimate paragraph, it is drawn up by a bailiff, on the initiative of the most diligent party, at costs shared equally between the lessor and the tenant.

#### NOTA :

*In accordance with Law No. 2014-626 of June 18, 2014, Article 3, for leases entered into pursuant to the first paragraph of Article L. 145-5 before the entry into force of this law, the last two paragraphs of the same article, in their wording resulting from this law, apply to any return of premises once an inventory has been drawn up when taking possession.*

*Article 21 of the said law specifies that the provisions of Article L. 145-5 as they result from Article 3 of Law No. 2014-626 are applicable to contracts concluded or renewed as of September 1 2014.*

### Article L145-5-1

**Creation LAW n°2014-626 of June 18, 2014 - art. 4**



This chapter does not apply to the precarious occupancy agreement which is characterized, whatever its duration, by the fact that the occupation of the premises is only authorized due to specific circumstances beyond the sole control of the parties. parts.

## Article L145-6

**Modified by Ordinance n°2005-1527 of December 8, 2005 - art. 29 () JORF December 9, 2005 in force October 1, 2007**

The lessor of premises for commercial, industrial or artisanal use may, during the original lease or a renewed lease, take over the premises in whole or in part to carry out work requiring the evacuation of the premises included in a sector or perimeter. provided for in Articles L. 313-4 and L. 313-4-2 of the Town Planning Code and authorized or prescribed under the conditions provided for in said articles, if he offers to transfer the lease to equivalent premises in the same building or in another building. This offer specifies the characteristics of the premises offered, which must allow the continuation of the exercise of the previous activity of the tenant. The offer must be notified one year in advance.

The tenant must, within a period of two months, either make known his acceptance, or refer the reasons for his refusal to the competent court, failing which he is deemed to have accepted the offer.

*NOTA :*

*Article 41 of Ordinance No. 2005-1527 states: "This Ordinance shall enter into force on dates fixed by decree in Council of State and no later than July 1, 2007." Decree No.*

*2007-18 of January 5, 2007, in its article 26 sets this date at July 1, 2007, subject to the reservations set out in this same article 26. Lastly,*

*article 72 of law n° 2007-209 of February 19, 2007 postpones the date date of entry into force of the ordinance on October 1, 2007.*

## Article L145-7

The tenant whose lease is postponed is entitled to compensation for dispossession which includes compensation for the harmful consequences of the temporary deprivation of use, taking into account, if necessary, the temporary installation carried out at the expense of the lessor and reimbursement of normal moving and relocation expenses.

When the offer has been accepted or recognized as valid by the competent court, and after the expiry of the period of one year from the ratification of the offer, the tenant must leave the premises as soon as the effective availability of the premises offered and the payment of provisional compensation, the amount of which is fixed in the forms provided for in Article L. 145-19.

The prices and the accessory conditions of the lease can be modified at the request of the most diligent party.

## Article L145-7-1

**Creation LAW n°2009-888 of July 22, 2009 - art. 16**

The commercial leases signed between the owners and operators of tourist residences mentioned in Article L. 321-1 of the Tourism Code are for a minimum period of nine years, without the possibility of termination at the end of a period triennial.

## Section 3: Renewal. (Articles L145-8 to L145-12)

### Article L145-8

**Modified by LAW n°2012-387 of March 22, 2012 - art. 2**

The right to renewal of the lease can only be invoked by the owner of the property which is operated on the premises.

The transformed fund, where applicable, under the conditions provided for in section 8 of this chapter, must, except for legitimate reasons, have been the subject of effective exploitation during the three years preceding the expiry date of the lease or its extension as provided for in Article L. 145-9, the latter date being either the date for which the notice was given, or, if a request for renewal has been made, the first day of the calendar quarter following this request.

## Article L145-9

**Amended by LAW n°2015-990 of August 6, 2015 - art. 207**

By way of derogation from articles 1736 and 1737 of the civil code, the leases of premises subject to this chapter only cease by the effect of a notice given six months in advance or of a request for renewal.

In the absence of notice or request for renewal, the lease made in writing is tacitly extended beyond the term fixed by the contract. During the tacit extension, notice must be given at least six months in advance and for the last day of the calendar quarter.

The lease, the duration of which is subject to an event, the occurrence of which authorizes the lessor to request termination, ceases, beyond the duration of nine years, only by the effect of a notification given six months in advance and for the last day of the calendar quarter. This notification must mention the occurrence of the event

provided for in the contract.

In the case of a lease comprising several periods, if the lessor terminates the lease at the end of the first nine years or at the expiry of one of the following periods, the notice must be given within the time limits provided for in paragraph first above.

The dismissal must be given by extrajudicial act. It must, on pain of nullity, specify the reasons for which it is given and indicate that the tenant who intends, either to contest the dismissal, or to request the payment of an eviction indemnity, must seize the court before the expiry of the notice. a period of two years from the date for which the notice was given.

#### Article L145-10

**Amended by LAW n°2015-990 of August 6, 2015 - art. 207**

In the absence of notice, the tenant who wants to obtain the renewal of his lease must make the request either in the six months preceding the expiry of the lease, or, if necessary, at any time during its extension.

The renewal request must be notified to the lessor by extrajudicial document or by registered letter with request for acknowledgment of receipt. Unless stipulated or notified to the contrary by the latter, it may, as well as to himself, be validly addressed to him in the person of the manager, who is deemed to have the capacity to receive it. If there are several owners, the request addressed to one of them is valid, unless stipulated or notified to the contrary, with regard to all of them.

It must, on pain of nullity, reproduce the terms of the paragraph below.

Within three months of the notification of the renewal application, the lessor must, by extrajudicial act, inform the applicant if he refuses the renewal, specifying the reasons for this refusal. Failing to have made known his intentions within this period, the lessor is deemed to have accepted the principle of the renewal of the previous lease.

The extrajudicial act notifying the refusal of renewal must, on pain of nullity, indicate that the tenant who intends, either to contest the refusal of renewal, or to request the payment of an eviction indemnity, must seize the court before the expiry a period of two years from the date on which the refusal of renewal is notified.

#### Article L145-11

The lessor who, without being opposed to the principle of renewal, wishes to obtain a modification of the price of the lease must, in the notice provided for in Article L. 145-9 or in the response to the request for renewal provided for in Article L 145-10 , make known the rent it offers, failing which the new price is only due from the request which is made subsequently according to the terms defined by decree in Council of State.

#### Article L145-12

**Amended by LAW n°2015-990 of August 6, 2015 - art. 207**

The term of the renewed lease is nine years unless the parties agree for a longer term.

The provisions of the second and third paragraphs of article L. 145-4 are applicable during the renewed lease.

The new lease takes effect from the expiry of the previous lease, or, where applicable, its extension, the latter date being either that for which the notice was given, or, if a request for renewal has been made, the first day of the calendar quarter following this request.

However, when the lessor has given notice, either by giving notice or by refusing to renew, of his intention not to renew the lease, and if he subsequently decides to renew it, the new lease takes effect from the day on which this acceptance was notified to the tenant by extrajudicial act or by registered letter with request for acknowledgment of receipt.

#### Article L145-13 (repealed)

**Repealed by LAW n°2014-626 of June 18, 2014 - art. 5**

Subject to the provisions of the law of 28 May 1943 relating to the application to foreigners of the laws relating to rental leases and farm leases, the provisions of this section may not be invoked by traders, industrialists or persons registered in the repertoire of professions of foreign nationality, acting directly or through an intermediary, unless, during the wars of 1914 and 1939, they fought in the French or allied armies, or they have children with French quality.

The preceding paragraph does not apply to nationals of a Member State of the European Community or of a State party to the Agreement on the European Economic Area.

### Section 4: Refusal of renewal. (Articles L145-14 to L145-30)

#### Article L145-14

The lessor can refuse the renewal of the lease. However, the lessor must, except for the exceptions provided for in Articles L. 145-17 et seq ., pay the evicted lessee a so-called eviction indemnity equal to the damage caused by the failure to renew.

This indemnity includes in particular the market value of the goodwill, determined according to the customs of the profession, possibly increased by the normal costs of moving and reinstallation, as well as the costs and transfer duties to be paid for a goodwill of the same value, except in the case where the owner proves that the damage is less.

#### Article L145-15

**Amended by LAW n°2014-626 of June 18, 2014 - art. 6**

Are considered unwritten, whatever their form, the clauses, stipulations and arrangements which have the effect of defeating the right of renewal established by this chapter or the provisions of articles L. 145-4 , L. 145- 37 to L. 145-41, the first paragraph of Article L. 145-42 and Articles L. 145-47 to L. 145-54 .

#### Article L145-16

**Modified by LAW n°2022-172 of February 14, 2022 - art. 2**

Are also deemed to be unwritten, regardless of their form, agreements prohibiting the lessee from assigning his lease or the rights he holds under this chapter to the purchaser of his business or company or to the beneficiary of the universal transfer of his professional assets.

In the event of merger or demerger of companies, in the event of universal transfer of a company's assets carried out under the conditions provided for in Article 1844-5 of the Civil Code or in the event of contribution of part of the assets of a company carried out under the conditions provided for in Articles L. 236-6-1 , L. 236-22 and L. 236-24 of this code, the company resulting from the merger, the company designated by the demerger contract or , failing this, the companies resulting from the demerger, the company benefiting from the universal transfer of assets or the company benefiting from the contribution are, notwithstanding any stipulation to the contrary, substituted for that for the benefit of which the lease was granted in all the rights and obligations arising from this lease.

In the event of assignment or in the cases provided for in the second paragraph, if the obligation of guarantee can no longer be ensured under the terms of the agreement, the court may replace it with any guarantees it deems sufficient.

#### NOTA :

*In accordance with I of article 19 of law n° 2022-172 of February 14, 2022, these provisions come into force at the end of a period of three months from the promulgation of this law.*

#### Article L145-16-1

**Creation LAW n°2014-626 of June 18, 2014 - art. 7**

If the assignment of the commercial lease is accompanied by a warranty clause from the assignor for the benefit of the lessor, the latter informs the assignor of any default in payment by the tenant within one month from the date on which the sum would have had to be paid by him.

#### Article L145-16-2

**Creation LAW n°2014-626 of June 18, 2014 - art. 8**

If the transfer of the commercial lease is accompanied by a guarantee clause from the transferor for the benefit of the lessor, the latter may only invoke it for three years from the transfer of the said lease.

#### Article L145-17

I.-The lessor may refuse the renewal of the lease without being required to pay any compensation: 1° If he justifies a serious and legitimate reason against the outgoing tenant. However, if it is either the non-performance of an obligation, or the cessation without serious and legitimate reason of the exploitation of the fund, taking into account the provisions of article L. 145-8, the offense committed by the lessee can only be invoked if it has continued or renewed more than one month after the lessor has been given formal notice to have it stopped. This formal notice must, on pain of nullity, be made by extrajudicial act, specify the reason invoked and reproduce the terms of this paragraph; 2° If it is established that the building must be totally or partially demolished as being in an unsanitary condition recognized by the administrative authority or if it is established that it can no longer be occupied without danger because of its condition. II.-In the event of reconstruction by the owner or his beneficiary of a new building comprising commercial premises, the tenant has the right of priority to rent in the reconstructed building, under the conditions provided for in articles L. 145-19 And L. 145-20 .

#### Article L145-18

**Amended by LAW n°2015-990 of August 6, 2015 - art. 207**

The lessor has the right to refuse the renewal of the lease to build or rebuild the existing building, subject to paying the evicted tenant the eviction compensation provided for in Article L. 145-14 .

The same applies to carrying out work requiring the evacuation of the premises included in a sector or perimeter provided for in Articles L. 313-4 and L. 313-4-2 of the Town Planning Code and authorized or prescribed under the conditions provided for in those articles.

However, the lessor may avoid paying this compensation by offering the evicted tenant premises corresponding to their needs and possibilities, located in an equivalent location.

If necessary, the tenant receives a compensatory indemnity for his temporary loss of use and the loss of value of his property. He is also reimbursed for his normal moving and moving expenses.

When the lessor invokes the benefit of this article, he must, in the act of refusal of renewal or in the notice, refer to the provisions of paragraph 3 and specify the new rental conditions. The tenant must, within a period of three months, either make known by extrajudicial document or by registered letter with request for acknowledgment of receipt, or seize the competent court under the conditions provided for in Article L. 145-58 .

If the parties are only in disagreement on the conditions of the new lease, these are fixed according to the procedure provided for in Article L. 145-56 .

## Article L145-19

**Amended by LAW n°2015-990 of August 6, 2015 - art. 207**

To benefit from the right of priority provided for in Article L. 145-17 , the tenant must, when leaving the premises or, at the latest within the following three months, notify the owner of his wish to use it, by extrajudicial act. or by registered letter with acknowledgment of receipt, informing him of his new domicile; he must likewise notify, under penalty of forfeiture, any new change of domicile.

The owner who has received such a notification must, before renting or occupying new premises himself, notify the tenant in the same manner that he is ready to grant him a new lease. In the absence of agreement between the parties on the conditions of this lease, these are determined according to the procedure provided for in Article L. 145-56.

The tenant has a period of three months to make a decision or to seize the competent court. This period must, on pain of nullity, be indicated in the notification referred to in the preceding paragraph. After this period, the owner can dispose of the premises.

The owner who does not comply with the provisions of the preceding paragraphs is liable, at the request of his tenant, to payment to the latter of damages.

## Article L145-20

When the rebuilt building, under the conditions provided for in Article L. 145-17, has a surface area greater than that of the original building, the right of priority is limited to premises with an area equivalent to that of the premises previously occupied or likely to satisfy the same commercial needs as the latter.

When the rebuilt building does not allow the relocation of all the occupants, preference is given to tenants holding the oldest leases who have made known their intention to occupy the premises.

## Article L145-21

The owner may also defer the renewal of the lease for a maximum period of three years, if he intends to raise the building and if this raising makes the temporary eviction of the tenant necessary. The latter is entitled, in this case, to compensation equal to the damage suffered without being able to exceed three years' rent.

## Article L145-22

The lessor may refuse the renewal of the lease exclusively on the part concerning the residential premises accessory to the commercial premises in order to live in these himself or to have them lived in by his spouse, his ascendants, his descendants or those of his spouse, condition that the beneficiary of the repossession does not have a dwelling corresponding to his normal needs and those of the members of his family usually living or domiciled with him.

However, the recovery under the conditions indicated above cannot be exercised on premises used as a hotel or furnished rental, nor on premises for hospital or teaching use.

Similarly, the repossession cannot be exercised when the tenant establishes that the deprivation of use of the residential premises causes a serious disturbance to the operation of the fund or when the commercial premises and the residential premises form an indivisible whole.

When the building has been acquired for consideration, the lessor can only benefit from the provisions of this article if his deed of acquisition has a certain date more than six years before the refusal of renewal.

The beneficiary of the right of repossession is required to make available to the tenant whose premises he is repossessing, the accommodation which, where applicable, could be made vacant by the exercise of this right.

In the case of partial takeover provided for in this article, the rent for the renewed lease takes into account the damage caused to the tenant or his beneficiary in the exercise of his activity.

Unless there is a legitimate reason, the beneficiary of the takeover must personally occupy the premises within six months of the departure of the evicted tenant and for a minimum period of six years, failing which the evicted tenant

is entitled to compensation for eviction. in relation to the size of the premises taken over.

#### **Article L145-23 (repealed)**

**Repealed by LAW n°2014-626 of June 18, 2014 - art. 5**

The provisions of article L. **Modified by Law n°2003-7 of January 3, 2003 - art. 50 (V) JORF January 4, 2003** 145-22 are not applicable to

lessors of foreign nationality, acting directly or through an intermediary, unless, during the wars of 1914 and 1939, they fought in the French armies. or allies, or that they have children having the quality of French.

The preceding paragraph does not apply to nationals of a Member State of the European Community or of a State party to the Agreement on the European Economic Area.

#### **Article L145-23-1**

**Creation Law n°2006-872 of July 13, 2006 - art. 45 () JORF July 16, 2006**

The lessor may, at the end of a three-year period, in the manner provided for in Article L. 145-9 and at least six months in advance, take over the residential premises rented incidentally to the commercial premises. they are not assigned to this residential use. The takeover can only be exercised if, after a period of six months following the notice issued for this purpose, the premises are not used for residential purposes.

However, the recovery under the conditions indicated in the first paragraph cannot be exercised on premises used as a hotel or furnished rental, nor on premises for hospital or teaching use.

Similarly, the repossession cannot be exercised when the tenant establishes that the deprivation of use of the residential premises causes a serious disturbance to the operation of the fund or when the commercial premises and the residential premises form an indivisible whole.

In the case of partial takeover provided for in this article, the rent of the lease is reduced to take account of the surfaces subtracted without this takeover being able in itself to constitute a significant modification of the elements of the rental value mentioned in article L. 145 -33 .

#### **Article L145-24**

The right to renewal is not opposable to the owner who has obtained a building permit for residential premises on all or part of one of the land referred to in 2° of Article L. 145-1 .

This right of recovery can, in any case, be exercised only on the part of the land essential for the construction. If it has the effect of obligatorily leading to the cessation of commercial, industrial or artisanal exploitation, the provisions of article L. 145-18 are applicable.

#### **Article L145-25**

The owner or the main tenant who, at the same time as he is the lessor of the premises, is the seller of the goodwill which is operated there and who has received the full price may refuse the renewal only at the expense of paying the the eviction indemnity provided for in Article L. 145-14, unless it justifies a reason recognized as serious and legitimate against the lessee.

#### **Article L145-26**

**Amended by LAW n°2008-776 of August 4, 2008 - art. 43**

The renewal of leases concerning buildings belonging to the State, local authorities and public establishments cannot be refused without the owner authority being required to pay the eviction compensation provided for in Article L. 145-14 , even if its refusal is justified by a reason of public utility.

#### **Article L145-27**

In the event that it should be established at the expense of the lessor that he has only exercised the rights conferred on him by articles L. 145-17 et seq . with a view to fraudulently defeating the rights of the lessee, in particular by rental and resale operations, whether these operations are civil or commercial, the lessee is entitled to compensation equal to the amount of the damage suffered.

#### **Article L145-28**

**Modified by Ordinance n°2019-964 of September 18, 2019 - art. 35 (DV)**

No tenant who can claim eviction compensation can be forced to leave the premises before having received it. Until payment of this indemnity, he is entitled to remain in the premises under the conditions and clauses of the expired lease contract. However, the occupancy allowance is determined in accordance with the provisions of sections 6 and 7, taking into account all elements of assessment.

By way of derogation from the previous paragraph, in the sole case provided for in the second paragraph of Article L. 145-18, the tenant must leave the premises upon payment of a provisional indemnity fixed by the president of the

court ruling in view of an expertise previously ordered in the forms set by decree in Council of State, pursuant to Article L. 145-56 .

*NOTA :*

*In accordance with Article 36 of Ordinance No. 2019-964 of September 18, 2019, these provisions come into force on January 1, 2020.*

#### Article L145-29

**Amended by LAW n°2008-776 of August 4, 2008 - art. 46**

In the event of eviction, the premises must be returned to the lessor at the end of a period of three months following the date of payment of the eviction indemnity to the tenant himself or of notification to him of the payment of compensation to a receiver. In the absence of agreement between the parties, the sequestrator is appointed by the judgment pronouncing condemnation to the payment of the indemnity or failing this by simple order on request.

Compensation is paid by the sequestrator to the tenant on his sole receipt, if there is no opposition from creditors and against delivery of the keys to the empty premises, on proof of payment of taxes, rents and subject to rental repairs.

#### Article L145-30

In the event of non-delivery of the keys on the fixed date and after formal notice, the escrow retains 1% per day of delay on the amount of the compensation and returns this deduction to the lessor on his sole receipt.

When the two-week period provided for in Article L. 145-58 has ended without the lessor having exercised his right to repent, the eviction compensation must be paid to the tenant or, possibly, to a receiver, in a period of three months from the date of an order made by extrajudicial act which must, on pain of nullity, reproduce this paragraph.

### **Section 5: Subletting. (Articles L145-31 to L145-32)**

#### Article L145-31

Unless otherwise stipulated in the lease or with the lessor's agreement, any total or partial subletting is prohibited.

In the event of authorized subletting, the owner is called upon to contribute to the act.

When the rent of the sublease is higher than the price of the main rental, the owner has the right to demand a corresponding increase in the rent of the main rental, an increase which, in the absence of agreement between the parties, is determined according to a procedure set by decree in Council of State, pursuant to the provisions of Article L. 145-56.

The tenant must inform the owner of his intention to sublet by extrajudicial act or by registered letter with request for acknowledgment of receipt. Within fifteen days of receipt of this notice, the owner must make known whether he intends to contribute to the deed. If, despite the authorization provided for in the first paragraph, the lessor refuses or if he fails to respond, he is disregarded.

#### Article L145-32

The sub-tenant may request the renewal of his lease from the main tenant to the extent of the rights that the latter himself holds from the landlord. The lessor is called upon to contribute to the act, as provided for in article L. 145-31 .

At the end of the main lease, the owner is only bound to renewal if he has, expressly or tacitly, authorized or approved the subletting and if, in the event of partial subletting, the premises subject to of the main lease do not form an indivisible whole materially or in the common intention of the parties.

### **Section 6: Rent. (Articles L145-33 to L145-40)**

#### Article L145-33

**Modified by Law n°2001-1168 of December 11, 2001 - art. 33 () JORF December 12, 2001**

The rental amount for renewed or revised leases must correspond to the rental value.

Failing agreement, this value is determined according to:

- 1 The characteristics of the premises considered;
- 2 The destination of the premises;
- 3 The respective obligations of the parties;
- 4 Local commercial factors;
- 5 The prices commonly practiced in the neighborhood;

A Conseil d'Etat decree specifies the consistency of these elements.

**Article L145-34****Amended by LAW n°2014-626 of June 18, 2014 - art. 11**  
**Amended by LAW n°2014-626 of June 18, 2014 - art. 9**

Unless there is a significant change in the elements mentioned in 1° to 4° of Article L. 145-33, the rate of change in the rent applicable when the lease to be renewed takes effect, if its duration does not exceed nine years, may not exceed the variation, which has occurred since the initial setting of the rent for the expired lease, of the quarterly commercial rent index or of the quarterly rent index for tertiary activities mentioned in the first and second paragraphs of article L. 112-2 of the monetary and financial code, published by the National Institute of Statistics and Economic Studies. In the absence of a contractual clause fixing the reference quarter of this index, it is necessary to take into account the variation of the quarterly index of commercial rents or the quarterly index of rents for tertiary activities, calculated over the period of nine years prior to the last published index.

In the event of renewal after the date initially scheduled for expiry of the lease, this variation is calculated on the basis of the last index published, for a period of duration equal to that which elapsed between the initial date of the lease and the date of its effective renewal.

The provisions of the above paragraph are no longer applicable when, by the effect of a tacit extension, the duration of the lease exceeds twelve years.

In the event of a significant change in the elements mentioned in 1° to 4° of Article L. 145-33 or if an exception is made to the ceiling rules following a clause in the contract relating to the duration of the lease, the resulting variation in rent cannot lead to increases greater than, for one year, 10% of the rent paid during the previous year.

*NOTA :*

*In accordance with 21 II of Law No. 2014-626 of June 18, 2014, these provisions are applicable to contracts entered into or renewed from September 1, 2014.*

**Article L145-35****Amended by LAW n°2014-626 of June 18, 2014 - art. 10**

Disputes arising from the application of Articles L. 145-34 and L. 145-38 as well as those relating to charges and works may be submitted to a departmental conciliation commission composed of landlords and tenants in equal numbers and persons qualified. The commission strives to reconcile the parties and issues an opinion.

If the court is seized in parallel with the competent committee by one or other of the parties, it cannot rule until the opinion of the committee has been given.

The commission is dismissed if it has not ruled within three months.

The composition of the commission, the method of appointing its members and its operating rules are set by decree.

**Article L145-36****Modified by LAW n°2010-1149 of September 30, 2010 - art. 5**

The elements used to determine the price of land leases, premises built for a single use and premises for exclusive office use are set by decree in Council of State.

The price of the lease of premises built or fitted out with a view to use as an establishment for cinematographic shows within the meaning of Article L. 212-2 of the Cinema and Moving Image Code is, by way of derogation from Articles L. 145 -33 and following of this code, determined only according to the uses observed in the branch of activity considered.

**Article L145-37**

Rents for leases of buildings or premises governed by the provisions of this chapter, whether renewed or not, may be revised at the request of either party subject to the reservations provided for in Articles L. 145-38 and L. 145-39 and under conditions set by decree in Council of State.

**Article L145-38****Amended by LAW n°2014-626 of June 18, 2014 - art. 11**  
**Amended by LAW n°2014-626 of June 18, 2014 - art. 12**  
**Amended by LAW n°2014-626 of June 18, 2014 - art. 9**

The request for revision can only be made three years at least after the date of entry into possession of the tenant or after the starting point of the renewed lease. The revision of the rent takes effect from the date of the request for revision.

New requests can be made every three years from the day on which the new price becomes applicable.

By way of derogation from the provisions of Article L. 145-33, and unless proof is provided of a material change in local commercial factors which in itself has led to a variation of more than 10% in the rental value, the increase or decrease in rent resulting from a three-year review may not exceed the change in the quarterly index of commercial rents or the quarterly index of rents for tertiary activities mentioned in the first and second paragraphs of Article L. 112 -2 of the monetary and financial code, which has occurred since the last amicable or judicial fixing of the rent. If this proof is provided, the resulting change in rent cannot lead to increases greater than, for one year, 10% of the rent paid during the previous year.

In no case is account taken, for the calculation of the rental value, of the lessee's investments nor of the capital gains

or losses resulting from its management during the term of the current lease.

*NOTA :*

*In accordance with 21 II of Law No. 2014-626 of June 18, 2014, these provisions are applicable to contracts entered into or renewed from September 1, 2014.*

#### Article L145-39

**Amended by LAW n°2014-626 of June 18, 2014 - art. 11**

In addition, and by way of derogation from Article L. 145-38, if the lease is accompanied by a sliding scale clause, the revision may be requested each time that, by the operation of this clause, the rent is increased or decreased by more than a quarter compared to the price previously fixed contractually or by judicial decision. The change in rent resulting from this revision cannot lead to increases greater than, for one year, 10% of the rent paid during the previous year.

*NOTA :*

*In accordance with 21 II of Law No. 2014-626 of June 18, 2014, these provisions are applicable to contracts entered into or renewed from September 1, 2014.*

#### Article L145-40

Rents paid in advance, in any form whatsoever, and even as a guarantee, bear interest for the benefit of the tenant, at the rate applied by the Banque de France for advances on securities, for sums exceeding that which corresponds to the rent price for more than two terms.

### **Section 6 bis: Inventory of fixtures, rental charges and taxes (Articles L145-40-1 to L145-40-2)**

#### Article L145-40-1

**Creation LAW n° 2014-626 of June 18, 2014 - art. 13 (V)**

When the tenant takes possession of the premises in the event of the conclusion of a lease, assignment of the right to the lease, assignment or transfer of the property free of charge and when the premises are returned, an inventory is established mutually and amicably by the lessor and the tenant or by a third party mandated by them. The inventory is attached to the rental contract or, failing that, kept by each of the parties.

If the inventory cannot be drawn up under the conditions provided for in the first paragraph, it is drawn up by a bailiff, on the initiative of the most diligent party, at costs shared equally between the lessor and the tenant.

The lessor who has not made every effort to carry out the inventory cannot invoke the presumption of article 1731 of the civil code.

#### Item L145-40-2

**Creation LAW n° 2014-626 of June 18, 2014 - art. 13 (V)**

All leases include a precise and limited inventory of the categories of charges, taxes, duties and fees related to this lease, including an indication of their distribution between the lessor and the lessee. This inventory gives rise to an annual summary statement sent by the lessor to the tenant within a time limit set by regulation. During the lease, the lessor informs the lessee of new charges, taxes, duties and fees.

At the conclusion of the rental contract, then every three years, the lessor communicates to each tenant:

1° An estimate of the work that he plans to carry out in the following three years, together with an estimated budget;

2° A summary statement of the work he has carried out in the previous three years, specifying their cost.

In a real estate complex comprising several tenants, the rental contract specifies the distribution of the charges or the cost of the work between the different tenants occupying this complex. This distribution depends on the area exploited. The amount of taxes, duties and fees that may be charged to the tenant corresponds strictly to the premises occupied by each tenant and to the share of the common areas necessary for the operation of the leased property. During the lease, the lessor is required to inform the tenants of any element likely to modify the distribution of charges between tenants.

A Conseil d'Etat decree sets the terms of application of this article. It specifies the charges, taxes, duties and fees which, due to their nature, cannot be attributed to the lessee and the procedures for informing the lessees.

*NOTA :*

*In accordance with 21 II of Law No. 2014-626 of June 18, 2014, these provisions are applicable to contracts entered into or renewed from September 1, 2014.*

### **Section 7: Termination (Articles L145-41 to L145-46-1)**

#### Article L145-41

**Amended by Ordinance No. 2016-131 of February 10, 2016 - art. 6**

Any clause inserted in the lease providing for termination by operation of law only takes effect one month after a



command has remained unsuccessful. The command must, on pain of nullity, mention this deadline.

The judges seized of a request presented in the forms and conditions provided for in Article 1343-5 of the Civil Code may, by granting time limits, suspend the performance and effects of the termination clauses, when the termination is not noted. or pronounced by a court decision having acquired the authority of *res judicata*. The resolutive clause does not come into play if the tenant frees himself under the conditions set by the judge.

#### Article L145-42

The automatic termination clauses for cessation of activity cease to have effect for the time necessary to carry out the transformations made pursuant to the provisions of section 8.

This period may not exceed six months from the date of the agreement on despecialization or the court decision authorizing it.

#### Article L145-43

**Modified by Ordinance n°2021-1189 of September 15, 2021 - art. 8**

Are exempted from the obligation to operate for the duration of their internship traders and persons registered in the national register of companies as a company in the trades and crafts sector, tenants of the premises in which their business is located, who are admitted to follow a conversion course or a promotion course within the meaning of Article L. 900-2 (3° and 5°) of the Labor Code, the minimum duration of which is fixed by decree and the maximum duration of which cannot exceed one year except in the case of a so-called promotional internship benefiting from the approval provided for in article L. 961-3 of the said code.

*NOTA :*

*In accordance with Article 47 of Ordinance No. 2021-1189 of September 15, 2021, these provisions come into force on January 1, 2023.*

#### Article L145-44

In the event that, at the end of one of the courses provided for in Article L. 145-43, the merchant or craftsman leaves the premises of which he is a tenant to convert his activity by transferring it to another premises or to take up salaried activity, the termination of the lease takes place automatically and without compensation at the end of a period of three months from the day it is notified to the lessor.

#### Article L145-45

Judicial reorganization and liquidation do not entail, as of right, the termination of the lease of the buildings assigned to the debtor's industry, commerce or crafts, including the premises dependent on these buildings and used for his habitation. or that of his family. Any contrary stipulation shall be disregarded.

*NOTA :*

*Law n° 2005-845 of July 26, 2005 art. 165 II: the references made to judicial reorganization and to the reorganization plan are replaced, respectively, by references to safeguard or judicial reorganization proceedings, and to safeguard or reorganization plans.*

#### Article L145-46

When he is both the owner of the leased building and the business that is operated there and that the lease covers both at the same time, the lessor must pay the tenant, on his departure, compensation corresponding to the profit that he can draw from the added value brought either to the fund, or to the rental value of the building by the material improvements carried out by the tenant with the express agreement of the owner.

#### Article L145-46-1

**Amended by LAW n°2022-217 of February 21, 2022 - art. 118**

When the owner of premises for commercial or artisanal use plans to sell it, he informs the tenant by registered letter with acknowledgment of receipt, or delivered by hand against receipt or signature. This notification must, on pain of nullity, indicate the price and the conditions of the proposed sale. It constitutes an offer of sale in favor of the tenant. The latter has a period of one month from receipt of this offer to make a decision. In case of acceptance, the tenant has, from the date of sending his answer to the lessor, a period of two months for the realization of the sale. If, in his answer, he notifies his intention to resort to a loan, the acceptance by the tenant of the offer to sell is subject to the

If, at the end of this period, the sale has not been completed, acceptance of the offer to sell is without effect.

In the event that the owner decides to sell under conditions or at a price more advantageous for the purchaser, the notary must, when the lessor has not previously done so, notify the tenant in the forms provided for in the first paragraph, at penalty of nullity of the sale, these conditions and this price. This notification constitutes an offer of

sale for the benefit of the tenant. This sales offer is valid for a period of one month from its receipt. The offer that has not been accepted within this period is void.

The tenant who accepts the offer thus notified has, from the date of sending his response to the lessor or the notary, a period of two months to complete the deed of sale. If, in his answer, he notifies his intention to resort to a loan, the acceptance by the tenant of the offer of sale is subordinated to obtaining the loan and the deadline for the completion of the sale is increased to four months. If, at the end of this period, the sale has not been completed, acceptance of the offer to sell is without effect.

The provisions of the first four paragraphs of this article are reproduced, on pain of nullity, in each notification.

This article does not apply in the event of a single transfer of several premises of a commercial complex, a single transfer of separate commercial premises or the transfer of a commercial premises to the co-owner of a commercial complex. It is also not applicable to the global sale of a building including commercial premises or to the sale of premises to the lessor's spouse, or to an ascendant or descendant of the lessor or his spouse. It is also not applicable when the right of pre-emption instituted in Chapters I and II of Title I of Book II of the Town Planning Code is applied or on the occasion of the alienation of a property on the basis of article L. 213-11 of the same code.

## **Section 8: Despecialization. (Items L145-47 to L145-55)**

Article L145-47

**Modified by Ordinance n°2019-964 of September 18, 2019 - art. 35 (DV)**

The lessee may add related or complementary activities to the activity provided for in the lease.

To this end, he must make his intention known to the owner by extrajudicial document or by registered letter with acknowledgment of receipt, indicating the activities whose exercise is envisaged. This formality is worth formal notice to the owner to make known within two months, on pain of forfeiture, if he disputes the related or complementary nature of these activities. In the event of a dispute, the court, seized by the most diligent party, decides according in particular to the evolution of commercial practices.

During the first three-yearly review following the notification referred to in the preceding paragraph, by way of derogation from the provisions of Article L. 145-38, account may be taken, for setting the rent, of additional commercial activities, if those -these have themselves led to a change in the rental value of the rented premises.

*NOTA :*

*In accordance with Article 36 of Ordinance No. 2019-964 of September 18, 2019, these provisions come into force on January 1, 2020.*

Article L145-48

The lessee may, at his request, be authorized to carry out in the leased premises one or more activities different from those provided for in the lease, having regard to the economic situation and the requirements of the rational organization of distribution, when these activities are compatible. with the destination, the characters and the situation of the building or the real estate complex.

However, the first tenant of premises included in a set constituting a commercial unit defined by a construction program cannot take advantage of this option for a period of nine years from the date of its entry into possession.

Article L145-49

**Amended by LAW n°2015-990 of August 6, 2015 - art. 207**

The request made to the lessor must, on pain of nullity, include an indication of the activities whose exercise is envisaged. It is formed by extrajudicial act or by registered letter with acknowledgment of receipt and notified, in the same form, to the creditors registered on the goodwill. The latter may request that the change of activity be subject to conditions likely to safeguard their interests.

The lessor must, within one month of this request, notify, in the same form, those of its tenants to whom it would have undertaken not to rent for the purpose of carrying out activities similar to those referred to in the request. These must, on pain of foreclosure, make known their attitude within one month of this notification.

If the lessor fails to have, within three months of the request, notify his refusal, his acceptance or the conditions to which he submits his agreement, he is deemed to have granted the request. This acquiescence does not preclude the exercise of the rights provided for in Article L. 145-50.

Article L145-50

The change of activity may motivate the payment, at the expense of the lessee, of an indemnity equal to the amount of the damage which the lessor would establish the existence.

The latter may also, in return for the benefit procured, request at the time of the conversion, the modification of the price of the lease without it being necessary to apply the provisions of Articles L. 145-37 to L. 145-39.

The rights of registered creditors are exercised with their previous rank, on the transformed fund.

**Article L145-51****Modified by Ordinance n°2019-964 of September 18, 2019 - art. 35 (DV)**

When the lessee having requested to benefit from his retirement rights or having been admitted to the benefit of a disability pension granted by the disability-death insurance scheme for craft professions or industrial and commercial professions, has notified his owner and to the creditors registered on the goodwill his intention to transfer his lease by specifying the nature of the activities whose exercise is envisaged as well as the proposed price, the lessor has, within a period of two months, a priority of repurchase to the conditions set out in the service. In the absence of use of this right by the lessor, his agreement is deemed granted if, within the same period of two months, he has not seized the court.

The nature of the activities whose exercise is envisaged must be compatible with the destination, the characteristics and the situation of the building.

The provisions of this article are applicable to the sole shareholder of a one-person limited liability company, or to the majority manager for at least two years of a limited liability company, when the latter is the holder of the lease.

*NOTA :*

*In accordance with Article 36 of Ordinance No. 2019-964 of September 18, 2019, these provisions come into force on January 1, 2020.*

**Article L145-52****Modified by Ordinance n°2019-964 of September 18, 2019 - art. 35 (DV)**

The court may authorize the total or partial transformation despite the lessor's refusal, if this refusal is not justified by a serious and legitimate reason.

If the dispute relates only to the price of the lease, it is fixed in accordance with the regulatory provisions provided for fixing the price of revised leases. In other cases, the case is taken to court.

*NOTA :*

*In accordance with Article 36 of Ordinance No. 2019-964 of September 18, 2019, these provisions come into force on January 1, 2020.*

**Article L145-53**

The refusal to convert is sufficiently reasoned if the lessor justifies that he intends to take over the premises at the end of the current three-year period, either in application of Articles L. 145-18 to L. 145-24 , or with a view to carry out work prescribed or authorized as part of an urban renewal or property restoration operation.

The lessor who has falsely invoked one of the reasons provided for in the preceding paragraph or who has not satisfied the conditions which motivated the rejection of the tenant's request cannot oppose a new request for transformation of activity. , except for serious and legitimate reasons, unless the failure to perform is not attributable to it. He may also be ordered to pay the tenant compensation for the damage suffered by the latter.

**Article L145-54**

No account is taken of the added value conferred on the fund by the transformation provided for in Article L. 145-48, when the building in which the fund is operated must be demolished or restored, or when the fund must be expropriated as part of a renovation or restoration operation decided upon less than three years after the request provided for in paragraph 1 of the said article.

**Article L145-55****Amended by LAW n°2015-990 of August 6, 2015 - art. 207**

At any time and until the expiry of a period of fifteen days from the date on which the decision has become final, the tenant who has made a request in accordance with Articles L. 145-47 , L. 145-48 or L. 145-49 may waive it by notifying the lessor by extrajudicial document or by registered letter with acknowledgment of receipt and, in this case, he bears all the costs of the proceedings.

**Section 9: Procedure. (Articles L145-56 to L145-60)****Article L145-56**

The rules of jurisdiction and procedure for disputes relating to the lease are set by decree of the Conseil d'Etat.

**Article L145-57**

During the duration of the proceedings relating to the fixing of the price of the revised or renewed lease, the tenant is required to continue to pay the rents due at the old price or, where applicable, at the price which may, in any case,

be fixed on a provisional basis by the court seized, except account to be made between the lessor and the lessee, after definitive fixing of the price of the rent.

Within one month following the notification of the final decision, the parties draw up a new lease under the conditions set by the courts, unless the tenant waives the renewal or the lessor refuses it, at the expense of that of the parties who have expressed their disagreement to bear all the costs. Failure by the lessor to have sent within this period for the signature of the lessee the draft lease in accordance with the aforementioned decision or, in the absence of agreement within one month of this sending, the order or judgment fixing the price or the conditions of the new lease are equivalent to lease.

#### Article L145-58

The owner may, until the expiry of a period of fifteen days from the date on which the decision has become final, evade payment of the indemnity, on condition that he bears the costs of the proceedings and to consent to the renewal of the lease, the conditions of which, in the event of disagreement, are set in accordance with the regulatory provisions adopted for this purpose. This right can only be exercised as long as the tenant is still in the premises and has not already rented or purchased another building intended for his relocation.

#### Article L145-59

The owner's decision to refuse renewal of the lease, pursuant to the last paragraph of Article L. 145-57 , or to evade payment of the compensation, under the conditions provided for in the last paragraph of Article L. 145-58 , is irrevocable.

#### Article L145-60

All actions exercised under this chapter are time-barred after two years.

### Chapter VI: Managers-agents. (Articles L146-1 to L146-4)

#### Article L146-1

**Modified by Ordinance n°2021-1189 of September 15, 2021 - art. 9**

The natural or legal persons who manage a business or an artisanal fund, in return for the payment of a commission proportional to the turnover, are qualified as "managers-agents" when the contract concluded with the principal, on whose behalf , if necessary within the framework of a network, they manage this fund, which remains its owner and bears the risks linked to its operation, sets them a mission, leaving them full latitude, within the framework thus drawn up, to determine their working conditions, to hire staff and to replace substitutes in their activity at their expense and under their full responsibility.

The mission specifies, where applicable, the standards for the management and operation of the fund to be respected and the methods of control likely to be carried out by the principal. These commercial clauses are not likely to modify the nature of the contract.

The manager-agent is registered in the trade and companies register and, where applicable, in the national register of companies as a business in the trades and crafts sector. The contract is mentioned in these registers and is the subject of a publication on a medium authorized to receive legal announcements.

The provisions of this chapter are not applicable to the professions governed by Chapter II of Title VIII of Book VII of the Labor Code .

#### NOTA :

*In accordance with Article 47 of Ordinance No. 2021-1189 of September 15, 2021, these provisions come into force on January 1, 2023.*

#### Article L146-2

**Creation Law n°2005-882 of August 2, 2005 - art. 19 () JORF August 3, 2005**

The principal provides the manager-agent, before the signing of the contract, with all the information necessary for his mission, as defined by decree, in order to allow him to make an informed commitment.

#### Article L146-3

**Creation Law n°2005-882 of August 2, 2005 - art. 19 () JORF August 3, 2005**

A framework agreement entered into between the principal and the manager-agents to whom he is bound by a contract, or their representatives, fixes in particular the amount of the minimum commission guaranteed in all the management-mandate contracts entered into by the said principal. This minimum commission takes into account the size of the establishment and the terms of its operation.

Failing agreement, the minister responsible for small and medium-sized enterprises sets this minimum commission.

**Article L146-4****Creation LAW n°2005-882 of August 2, 2005 - art. 19 () JORF August 3, 2005**

The contract between the principal and the manager-agent may end at any time under the conditions set by the parties. However, in the event of termination of the contract by the principal, except for serious misconduct on the part of the manager-agent, the principal shall pay him compensation equal, unless more favorable conditions set by the parties, to the amount of the commissions acquired, or to the commission minimum guarantee mentioned in Article L. 146-3, during the six months preceding the termination of the contract, or during the period of performance of the contract if this was less than six months.

**Title V: Protection of business secrets (Articles L151-1 to L154-1)****Chapter I: Object and conditions of protection (Articles L151-1 to L151-9)****Section 1: Protected information (Article L151-1)****Article L151-1****Creation LAW n° 2018-670 of July 30, 2018 - art. 1**

Any information meeting the following criteria is protected by trade secrecy:

- 1° It is not, in itself or in the exact configuration and assembly of its elements, generally known or easily accessible for people familiar with this type of information because of their sector of activity;
- 2° It has a commercial value, actual or potential, because of its secret nature;
- 3° It is the subject on the part of its legitimate holder of reasonable protection measures, taking into account the circumstances, to preserve its secrecy.

**Section 2: Legitimate possession and lawful obtaining of a business secret (Articles L151-2 to L151-3)****Article L151-2****Creation LAW n° 2018-670 of July 30, 2018 - art. 1**

The legitimate holder of a trade secret is anyone who has control of it in a lawful manner.

**Article L151-3****Creation LAW n° 2018-670 of July 30, 2018 - art. 1**

The following are means of lawfully obtaining a trade secret:

- 1° An independent discovery or creation;
- 2° The observation, study, disassembly or test of a product or an object which has been made available to the public or which is lawfully in the possession of the person who obtains the information, except contractual stipulation prohibiting or limiting the obtaining of secrecy.

**Section 3: Unlawful acquisition, use and disclosure (Articles L151-4 to L151-6)****Article L151-4****Creation LAW n° 2018-670 of July 30, 2018 - art. 1**

Obtaining a trade secret is unlawful when it is carried out without the consent of its legitimate holder and results from:

- 1° Unauthorized access to any document, object, material, substance or digital file which contains the secret or from which it can be deduced, or from an unauthorized appropriation or copying of these elements;
- 2° Any other behavior considered, given the circumstances, as unfair and contrary to commercial practice.

**Article L151-5****Creation LAW n° 2018-670 of July 30, 2018 - art. 1**

The use or disclosure of a trade secret is unlawful when it is carried out without the consent of its legitimate holder by a person who has obtained the secret under the conditions mentioned in Article L. 151-4 or who acts in breach of an obligation not to disclose the secret or to limit its use.

The production, offer or placing on the market, as well as the import, export or storage for these purposes of any product resulting significantly from a breach of trade secrecy are also considered to be a use illicit when the person carrying out these activities knew, or ought to have known in the circumstances,

**Article L151-6****Creation LAW n° 2018-670 of July 30, 2018 - art. 1**

Obtaining, using or disclosing a trade secret is also considered unlawful when, at the time of obtaining, using or disclosing the secret, a person knew, or should have known at given the circumstances, that this secret had been obtained, directly or indirectly, from another person who used or disclosed it unlawfully within the meaning of the first

paragraph of Article L. 151-5 .

#### **Section 4: Exceptions to the protection of trade secrets (Articles L151-7 to L151-9)**

Article L151-7

**Creation LAW n° 2018-670 of July 30, 2018 - art. 1**

Trade secrecy is not enforceable when the obtaining, use or disclosure of the secret is required or authorized by European Union law, international treaties or agreements in force or national law, in particular in the the exercise of the powers of investigation, control, authorization or sanction of the jurisdictional or administrative authorities.

Article L151-8

**Amended by LAW n°2022-401 of March 21, 2022 - art. 14**

On the occasion of a proceeding relating to an attack on business secrecy, the secret is not opposable when its obtaining, use or disclosure has taken place:

1° To exercise the right to freedom of expression and communication, including respect for freedom of the press, and freedom of information as proclaimed in the Charter of Fundamental Rights of the European Union;

2° To reveal, with the aim of protecting the general interest and in good faith, an illegal activity, a fault or reprehensible behavior, including during the exercise of the right to alert defined in article 6 of the Law No. 2016-1691 of December 9, 2016 relating to transparency, the fight against corruption and the modernization of economic life under the conditions defined in Articles 6 and 8 of the same law;

3° For the protection of a legitimate interest recognized by European Union law or national law.

*NOTA :*

*In accordance with Article 18 of Law No. 2022-401 of March 21, 2022, these provisions come into force on the first day of the sixth month following its promulgation.*

Article L151-9

**Creation LAW n° 2018-670 of July 30, 2018 - art. 1**

On the occasion of a proceeding relating to an attack on trade secrecy, the secrecy is not opposable when:

1° The obtaining of trade secrecy intervened within the framework of the exercise of the right to information and consultation of employees or their representatives;

2° The disclosure of trade secrets by employees to their representatives occurred within the framework of the legitimate exercise by the latter of their functions, insofar as this disclosure was necessary for this exercise.

The information thus obtained or disclosed remains protected by trade secrecy with regard to persons other than the employees or their representatives who have knowledge of it.

#### **Chapter II: Actions for the prevention, cessation or reparation of a breach of business secrecy (Articles L152-1 to L152-8)**

Article L152-1

**Creation LAW n° 2018-670 of July 30, 2018 - art. 1**

Any breach of business secrecy as provided for in Articles L. 151-4 to L. 151-6 engages the civil liability of its author.

Article L152-2

**Modified by LAW n°2019-486 of May 22, 2019 - art. 124 (V)**

Actions relating to an infringement of trade secrets are time-barred after five years from the day on which the legitimate holder of trade secrets knew or should have known of the last fact which is the cause.

#### **Section 1: Measures to prevent and put an end to a breach of business secrecy (Articles L152-3 to L152-5)**

Article L152-3

**Creation LAW n° 2018-670 of July 30, 2018 - art. 1**

I.-In the context of an action relating to the prevention or cessation of an attack on a trade secret, the court may, without prejudice to the award of damages, prescribe, including under penalty, any proportionate measure likely to prevent or put an end to such interference. It may in particular:

1° Prohibit the performance or continuation of acts of use or disclosure of a trade secret;

2° Prohibit the acts of production, offer, placing on the market or use of products significantly resulting from the breach of business secrecy or the import, export or storage of such products at these purposes;

3° Order the total or partial destruction of any document, object, material, substance or digital file containing the business secret concerned or from which it can be deduced or, as the case may be, order their total or partial

handing over to the applicant.

II.-The court may also order that the products resulting significantly from the breach of trade secrecy be recalled from commercial channels, permanently removed from these channels, modified in order to remove the breach of trade secrecy, destroyed or, as the case may be, confiscated for the benefit of the injured party.

III.-When the court limits the duration of the measures mentioned in 1° and 2° of I, the fixed duration must be sufficient to eliminate any commercial or economic advantage that the perpetrator of the breach of business secrecy could have derived from unlawful acquisition, use or disclosure of trade secrets.

IV.-Except in special circumstances and without prejudice to any damages that may be claimed, the measures mentioned in I to III are ordered at the expense of the infringer.

It may be terminated at the request of the infringer when the information concerned can no longer be qualified as a business secret within the meaning of Article L. 151-1 for reasons which do not depend on,

#### Article L152-4

**Creation LAW n° 2018-670 of July 30, 2018 - art. 1**

To prevent an imminent attack or put an end to an unlawful attack on a business secret, the court may, on request or in summary proceedings, order provisional and protective measures, the terms of which are determined by decree in the Council of State.

#### Article L152-5

**Creation LAW n° 2018-670 of July 30, 2018 - art. 1**

Without prejudice to Article L. 152-6, the court may order, at the request of the perpetrator of the infringement, the payment of compensation to the injured party instead of the measures mentioned in I to III of Article L. Article L. 152-3 when the following conditions are met:

1° At the time of the use or disclosure of the trade secret, the perpetrator of the infringement did not know, nor could he have known in view of the circumstances, that the trade secret had been obtained from another person who used or disclosed it unlawfully;

2° The execution of the measures mentioned in I to III of Article L. 152-3 would cause the perpetrator disproportionate damage;

3° The payment of compensation to the injured party seems reasonably satisfactory.

When the payment of this indemnity is ordered instead of the measures provided for in 1° and 2° of I of the same article L. 152-3, this indemnity cannot be set at a sum greater than the amount of the duties that would have been due, if the infringer had requested authorization to use said trade secret for the period during which the use of the trade secret could have been prohibited.

### Section 2: Compensation for breach of business secrecy (Article L152-6)

#### Article L152-6

**Creation LAW n° 2018-670 of July 30, 2018 - art. 1**

To set the damages due in compensation for the harm actually suffered, the court takes into consideration separately:

1° The negative economic consequences of the breach of business secrecy, including the loss of profit and the loss suffered by the injured party, including loss of opportunity;

2° The moral prejudice caused to the injured party;

3° The profits made by the author of the breach of trade secrecy, including the savings in intellectual, material and promotional investments that he derived from the breach.

The court may, as an alternative and at the request of the injured party, award as damages a lump sum which takes into account in particular the rights which would have been due if the author of the infringement had requested authorization to use the trade secret in question. This sum is not exclusive of compensation for the moral damage caused to the injured party.

### Section 3: Publicity measures (Article L152-7)

#### Article L152-7

**Creation LAW n° 2018-670 of July 30, 2018 - art. 1**

The court may order any publicity measure for the decision relating to the unlawful acquisition, use or disclosure of a trade secret, in particular its display or publication in full or in extracts in newspapers or on communication services. to the online public that it designates, according to the terms that it specifies.

When ordering such a measure, the court ensures that business secrecy is protected under the conditions provided for in Article L. 153-1 .

The measures are ordered at the expense of the infringer.

#### **Section 4: Sanctions in the event of dilatory or abusive proceedings (Article L152-8)**

Article L152-8

**Creation LAW n° 2018-670 of July 30, 2018 - art. 1**

Any natural or legal person who acts in a dilatory or abusive manner on the basis of this chapter may be ordered to pay a civil fine, the amount of which may not exceed 20% of the amount of the claim for damages. In the absence of a claim for damages, the amount of the civil fine may not exceed €60,000.

The civil fine may be pronounced without prejudice to the granting of damages to the party victim of the dilatory or abusive procedure.

#### **Chapter III: General measures for the protection of business secrets before civil or commercial courts (Articles L153-1 to L153-2)**

Article L153-1

**Modified by LAW n°2019-222 of March 23, 2019 - art. 33 (V)**

When, on the occasion of a civil or commercial proceeding having as its object an investigative measure requested before any trial on the merits or on the occasion of a proceeding on the merits, it is stated or is requested the communication or the production of a document which is alleged by a party or a third party or which has been judged to be likely to infringe business secrecy, the judge may, ex officio or at the request of a party or a third party, if the protection of this secret cannot be ensured otherwise and without prejudice to the exercise of the rights of defence:

1° Take cognizance of this document alone and, if he deems it necessary, order an expert report and seek the opinion, for each of the parties, of a person authorized to assist or represent him, in order to decide whether it is necessary to apply the protective measures provided for in this article;

2° Decide to limit the communication or production of this document to certain of its elements, order its communication or production in summary form or restrict access, for each of the parties, to no more than one natural person and a person authorized to assist or represent it;

3° Decide that the debates will take place and that the decision will be pronounced in chambers of the council;

4° Adapt the reasoning for its decision and the procedures for publicizing it to the requirements of the protection of business secrecy.

Article L153-2

**Creation LAW n° 2018-670 of July 30, 2018 - art. 1**

Any person having access to a document or to the content of a document considered by the judge to be covered or likely to be covered by business secrecy is bound by an obligation of confidentiality prohibiting him from any use or disclosure of the information which he contains.

In the case of a legal person, the obligation provided for in the first paragraph of this article applies to its legal or statutory representatives and to the persons who represent it before the court.

Persons having access to the document or its content are not bound by this obligation either in their relations with each other or with regard to the legal or statutory representatives of the legal person party to the procedure.

The persons authorized to assist or represent the parties are not bound by this obligation of confidentiality with regard to them, except in the case provided for in 1° of Article L. 153-1 .

The obligation of confidentiality continues at the end of the procedure. However, it ends if a court decides, by a non-appealable decision, that there is no trade secret or if the information in question has in the meantime ceased to constitute a trade secret or has easily become accessible.

#### **Chapter IV: Conditions of application (Article L154-1)**

Article L154-1

**Creation LAW n° 2018-670 of July 30, 2018 - art. 1**

The conditions of application of this title are fixed by decree in Council of State.