



LUXEMBOURG

Decent Work Check 2019

Iftikhar Ahmad

WageIndicator Foundation - www.wageindicator.org

WageIndicator started in 2001 to contribute to a more transparent labour market for workers and employers by publishing easily accessible information on a website. It collects, compares and shares labour market information through online and face-to-face surveys and desk research. It publishes the collected information on national websites, thereby serving as an online library for wage information, labour law, and career advice, both for workers/employees and employers. The WageIndicator websites and related communication activities reach out to millions of people on a monthly basis. The WageIndicator concept is owned by the independent, non-profit WageIndicator Foundation, established in 2003. The Foundation has offices in Amsterdam (HQ), Ahmedabad, Bratislava, Buenos Aires, Cape Town, Islamabad and Venice.

The authors

Iftikhar Ahmad works as Labour Law Specialist with WageIndicator Foundation. He can be contacted at iftikharahmad@wageindicator.org

Acknowledgements

Many people contributed to the development of the Decent Work Check as a tool and to this Check for Albania. Those who contributed to the development of tool include Paulien Osse, Kea Tijdens, Dirk Dragstra, Leontine Bijleveld, Egidio G. Vaz Raposo and Lorena Ponce De Leon. Iftikhar Ahmad later expanded the work to new topics in 2012-13. Daniela Ceccon, Huub Bouma, and Gunjan Pandya have supported the work by bringing it online through building and operating labour law database and linking it to the WageIndicator websites. Special thanks are due to the Islamabad team, which works on Decent Work Checks since 2012. The team currently comprises Iftikhar Ahmad (team leader), Ayesha Mir, Ayesha Ahmed, Shabana Malik and Aizaz Raof Ali.

Bibliographical information

Ahmad I (2019) *Luxembourg Decent Work Check 2019*. Amsterdam, WageIndicator Foundation, January.

For an updated version in the national language, please refer to <https://lohnspiegel.lu/>

Copyright 2019 by WageIndicator Foundation. All rights reserved.

WageIndicator Foundation, 2019

Address: P O Box 94025, 1090 GA Amsterdam, The Netherlands

Email office@wageindicator.org.

Table of Contents

INTRODUCTION	1
Major Legislation on Employment and Labour	2
01/13 WORK & WAGES	3
02/13 COMPENSATION	6
03/13 ANNUAL LEAVE & HOLIDAYS.....	10
04/13 EMPLOYMENT SECURITY	13
05/13 FAMILY RESPONSIBILITIES.....	19
06/13 MATERNITY & WORK.....	22
07/13 HEALTH & SAFETY.....	26
08/13 SICK LEAVE & EMPLOYMENT INJURY BENEFIT	29
09/13 SOCIAL SECURITY	33
10/13 FAIR TREATMENT	37
11/13 MINORS & YOUTH.....	41
12/13 FORCED LABOUR	44
13/13 TRADE UNION.....	46
DECENT WORK QUESTIONNAIRE.....	50

INTRODUCTION

Decent Work is the type of work for which all of us aspire. It is done under conditions where people are gainfully employed (and there exist adequate income and employment opportunities); social protection system (labour protection and social security) is fully developed and accessible to all; social dialogue and tripartism are promoted and encouraged; and rights at work, as specified in ILO Declaration on Fundamental principles and Rights at Work and Core ILO Conventions, are practiced, promoted and respected.

WageIndicator Foundation has been working, since late 2007, to raise awareness on workplace rights through a unique tool, i.e., **Decent Work Check**. The Decent Work Check considers different work aspects, which are deemed important in attaining "decent work". The work makes the rather abstract Conventions and legal texts tangible and measurable in practice.

The Decent Work Check employs a double comparison system. It first compares national laws with international labour standards and gives a score to the national regulations (happy or sad face). If national regulations in a country are not consistent with ILO conventions, it receives a sad face and its score decreases (and vice versa). It then allows workers to compare their on-ground situation with national regulations. Workers can compare their own score with national score and see whether their working conditions are consistent with national and international labour standards. The Check is based on de jure labour provisions, as found in the labour legislation.

Decent Work Check is useful both for employees and employers. It gives them knowledge, which is the first step towards any improvement. It informs employees of their rights at the workplace while simultaneously enlightening employers about their obligations. Decent Work Check is also useful for researchers, labour rights organizations conducting surveys on the situation of rights at work and general public wanting to know more about the world of work. WageIndicator teams, around the world, have found out that workers, small employers and even labour inspectors are not, sometimes, fully aware of the labour law. When you are informed - being a workers, self-employed, employee, employer, policy maker, labour inspector - there is a greater possibility that you ask for your rights (as a worker), you comply with rules (as an employer) and you strive to enforce these (as a labour inspector).

The work is relevant to the challenges posed to the future of work especially the effective enforcement of legislation in financially constrained states, rise of precarious employment and measuring the impact of regulatory regimes.

Currently, there are more than 100 countries for which a Decent Work Check is available here: www.decentworkcheck.org During 2019, the team aims to include at least 10 more countries, thus taking the number of countries with a Decent Work Check to 115!

Major Legislation on Employment and Labour

1. Labour Code 2006, last amended in 2017
2. Civil Code 1803, last amended in 2014
3. Social Security Code 1925, last amended in 2013
4. Constitution of Luxembourg 1868, last revised in 2009
5. Grand-Ducal Regulation of 10 July 1974 relating to equal pay for men and women
6. Penal Code 1879, last amended in 2016

01/13 WORK & WAGES

ILO Conventions

Minimum wage: Convention 131 (1970)

Regular pay & wage protection: Conventions 95 (1949) and 117(1962)

Luxembourg has not ratified the above mentioned Conventions.

Summary of Provisions under ILO Conventions

The minimum wage must cover the living expenses of the employee and his/her family members. Moreover, it must relate reasonably to the general level of wages earned and the living standard of other social groups. Wages must be paid regularly on a daily, weekly, fortnightly or monthly basis.

Regulations on work and wages:

- Labour Code 2006, last amended in 2017

Minimum Wage

Minimum wage is the minimum level of payment that all male and female wage earners, without any intellectual or physical disability, are entitled to receive. On receipt of recommendations from the government every two years, the legislature fixes the minimum wage through a statute. Minimum wage is adjusted taking into account the general economic conditions and incomes in the country and according to the evolution of the average wage level. The raise in the minimum wage is determined by the increase in the cost of living index. Moreover, the wage rate varies according to the employee's professional qualifications and age. Wage increase in Luxembourg depends on the wage indexation which is an automatic mechanism for adjustment of wages in line with changing living costs as determined by STATEC, the national statistics office. The last adjustment of the wage index was done in October 2013. From 01 January 2017, wage index rose from 775.17 to 794.54. The wage index increase implies a 2.5% increase in the gross wages paid to the workers.

Wages may also be set through collective bargaining however the wage rate may not be less than the national minimum wage rate. Workers are entitled to the social minimum wage however if a company's financial position does not allow it to pay even minimum wage, a temporary order may be issued by the Minister of Labour allowing the company to pay a wage that is lower than the national minimum wage rate. In the case of disabled employees, an employer may apply to the Commission d'orientation et de reclassement professionnel for application of a lower minimum wage rate to a worker whose physical or mental disability renders him/her unable to work with the same efficiency as a worker without any disability.

Minimum wage for unskilled workers who are 18 years and over is referred to as the general minimum wage. The minimum wage for qualified workers who are 18 years and over is 120% of this general minimum wage.

The wage rate for workers under 18 years of age is expressed as a percentage of general minimum wages. It is 80% of the general minimum wage for workers who are 17-18 years old and 75% for the general minimum wage for those workers who are 15-17 years old.

In order to be considered as qualified, an employee must either have undertaken a recognized official certificate at least equivalent to a vocational skills certificate (certificat d'aptitudetechnique et professionnelle-CATP) or a vocational diploma (diplôme d'aptitude professionnelle-DAP) from a Luxembourg technical secondary school; or have a manual skills certificate (certificat de capacité manuelle-CCM) or a certificate of vocational ability (certificat de capacité professionnelle-CCP) and proof of at least two years' experience in the trade; or have a vocational initiation certificate from a technical secondary school (certificat d'initiation technique et

professionnelle-CITP) and proof of at least 5 years' practical experience in the trade or profession; or, if he does not have a qualification, proof of at least 10 years' practical professional experience (if a certificate exists for the required qualification); or provide proof of at least 6 years' practical experience in a trade requiring a certain technical capacity and for which an official certificate is not issued for training.

Labour and Mines Inspectorate is responsible for ensuring compliance with the labour legislation including the provisions on minimum wage and payment of wages. If an employer fails to pay the specified minimum wage rate, he/she is liable to a fine of between € 251 and €25,000. In the event of repeated offences within a period of two years, these fines may be doubled.

Sources: §222 of Labour Code 2006, last amended in 2017

For updated minimum wage rates, please refer to the section on minimum wages.

<http://www.itm.lu/home/droit-du-travail/salaire-social-minimum.html>

Regular Pay

Salary is the direct compensation for work carried out by the employee for his employer. It may consist of various elements in cash or in kind. The benefits in kind include provision by the employer of the food, meal vouchers (tickets for restaurant), housing, company transport, etc.

The value of benefits in kind can be freely determined by the employer and employee in the employment contract. The value of benefits in kind must be clearly mentioned in the employment contract.

The frequency of wage payments can be set under an employment contract however salary has to be paid every month, at the latest on the last day of calendar month for work performed during that month. The wage payment must be accompanied by a pay slip. The document (pay slip) must clearly mention the exact amount and detailed method of calculating wages expressing in particular the work period and the total number of hours of work equal to the wages paid, the rate of pay for hours worked and any other payment in cash or in kind.

At the termination of employment contract, the salary statement must be provided to the worker and wage/salary still due must be paid within 5 days of termination of an employment contract.

Sources: §121-4, 125-7 & 222-1 of Labour Code 2006, last amended in 2017

02/13 COMPENSATION

ILO Conventions

Compensation overtime: Convention 01 (1919)

Night work: Convention 171 (1990)

Luxembourg has ratified the Conventions 01 & 171.

Summary of Provisions under ILO Conventions

Working overtime is to be avoided. Whenever it is unavoidable, extra compensation is at stake - minimally the basic hourly wage plus all additional benefits you are entitled to. In accordance with ILO Convention 1, overtime pay rate should not be less than one and a quarter times (125%) the regular rate.

Night work means all work which is performed during a period of not less than seven (07) consecutive hours, including the interval from midnight to 5 a.m. A night worker is a worker whose work requires performance of a substantial number of hours of night work which exceeds a specified limit (at least 3 hours). Convention 171 requires that night workers be compensated with reduced working time or higher pay or similar benefits. Similar provisions are found in the Night Work Recommendation No. 178 of 1990.

If a worker has to work on a national/religious holiday or a weekly rest day, he/she should be entitled to compensation. Not necessarily in the same week, provided that the right to a paid compensation is not.

If a worker has to work during the weekend, he/she should thereby acquire the right to a rest period of 24 uninterrupted hours instead. Not necessarily in the weekend, but at least in the course of the following week. Similarly, if a worker has to work on a public holiday, he/she must be given a compensatory holiday. A higher rate of pay for working on a public holiday or a weekly rest day does not take away the right to a holiday/ rest.

Regulations on compensation:

- Labour Code 2006, last amended in 2017

Overtime Compensation

Working hours are all those hours during which the worker is at the disposal of the employer. However, it excludes the rest periods during which workers are not at the disposal of the employer. The general working hours are 8 hours a day and 40 hours a week. The daily and weekly hours limit is averaged over a reference period of 4 weeks. A longer reference period (maximum of 12 months) may also be set under a collective bargaining agreement however the daily and weekly working time may not exceed 10 hours and 48 hours (inclusive of overtime) respectively. For adolescents/teenage workers (15-18 years), the maximum working time is 40 hours a week.

In certain sectors, where there is exceptional seasonal work overload, the collective agreement may permit daily and weekly working hours as 12 hours and 60 hours respectively for a period of up to six weeks. For work performed due to seasonal work overload, each hour worked beyond 8 hours a day and 40 hours a week must be paid as overtime if no compensation system is in place. If there is a compensation system in place, each hour worked beyond 10 hours a day and 48 hours a week is paid as overtime.

Overtime is the work which is performed beyond daily and weekly limits of normal hours of work. Overtime is generally authorised under the following conditions: to allow special work to be carried out (inventories and liquidations); to prevent the loss of perishable products or avoid the endangering of the technical results of work; work undertaken to cope with an actual or threatened (imminent) injury; and for emergency work to avoid serious interference with the ordinary working of the institution. Overtime work may not be performed for more than two hours per day. Thus, the total working hours during a day cannot exceed 10 hours.

Under the amended Labour Code, employers now can set up a working organization plan (POT) allowing them to determine the weekly working hours with flexibility and extends the reference period from one month to four months. A collective agreement may still raise the reference period to maximum of 12 months.

Under the December 2016 amendment in the law, overtime is performed if the hours worked during the reference period exceed 40 hours on average and where the hours worked exceed a certain limit: any hours exceeding 20% beyond the normal working hours (48 hours a week and 192 hours per month) in a reference period of up to 1 month; any hours exceeding 12.5% beyond the normal working hours (45 hours per week and 180 per month) in a reference period of 1-3 months; any hours exceeding 10% beyond the normal working hours (44 hours per week and 176 hours per month) over a reference period of 3-4 months. The companies using POT and granting workers extra days of annual leave are now subject to higher maximum working hours. If a worker is

made to work beyond those hours (as specified above), only then is the work considered and paid as overtime.

Workers may be given time-off or paid a premium rate for overtime hours. In the case of compensatory time-off, one and half hour (90 minutes) of time-off is provided against each hour (60 minutes) of overtime worked. In the case of financial compensation, worker is paid 140% of the normal wage rate for overtime hours (the premium is only 40%). Work plan for engaging workers for overtime is established at least five weekdays before the reference period for that purpose and submitted to staff delegation. Overtime compensation provisions are not applicable to senior managers/executives.

For part-time workers, overtime is possible on voluntary basis, may not exceed the duration of normal working time for a full-time employee; and must be governed by the employment contract. Overtime is prohibited for young as well pregnant and breastfeeding workers.

Employers are now required to keep a working time register to maintain details on beginning and end of daily working hours, extension of working hours beyond the standard hours, hours worked on nights, weekly holidays and public holidays. If the employer fails to comply with the provisions (to maintain such a register), it will expose the worker to administrative fine or criminal sanction.

Sources: §211, 334 & 336 of Labour Code 2006, last amended in 2017

Night Work Compensation

Night work is the work performed during the interval between 22:00 and 06:00 for all sectors except hotel and catering (where this interval is 23:00 to 06:00). Night worker is the worker who spends at least three hours of his/her working time during the night period or worker, who, by virtue of a collective agreement, is likely to perform night work for at least one quarter (25%) of their annual working hours.

The daily working hours for night workers cannot exceed 8 hours on average per 24-hour period over a 7-day period. Night workers carrying out hazardous work cannot work more than 8 hours a day for every 24-hour period.

An employer has to make additional payments for night workers if a collective agreement is in place or in the hotel and catering sector. A collective agreement must provide for a premium for night work which cannot be less than 15%. A collective agreement may provide a higher rate of premium pay for night work. In the hospitality (hotel and catering) sector, the premium pay is 25% for night work performed between 01:00 and 06:00 (worker may either be provided a compensatory time-off). The additional payment for night work is also exempt from taxes.

Night workers are entitled to medical examination before the start of night and afterwards at regular intervals. Employer is required to transfer a worker to suitable daytime position if a medical examination has determined that night work is harmful for the worker's health.

Sources: §162-12, 211, 212-8, 326-1 & 326-9 Labour Code 2006, last amended in 2017

Compensatory Holidays / Rest Days

Generally, Sunday work is prohibited for all employees and apprentices from midnight to midnight. Work on a weekly rest day is permitted for family undertakings, surveillance of business premises, work necessary for the continuous operation of a business, work necessary to avoid the deterioration of raw materials or products, and urgent works which is necessary to arrange rescue measures, avoid imminent accidents or repair damage to equipment, installations or buildings.

If a worker performs work on Sunday for more than four hours, he/she has the right to full day of paid compensatory leave. If a worker has worked less than 4 hours on a Sunday, he/she is entitled to half a day's paid rest. In addition to this time-off, worker is also entitled to get 70% of his/her normal wage for every hour worked on Sunday. If work on Sunday is also considered overtime, workers are entitled to premium rate of 140% of the normal wage rate for those hours worked on Sunday or compensatory time-off as calculated under the law. Adolescent workers who work on a Sunday or Public Holiday receive a 100% increase in their salary.

Sources: §231 & 344-14 of Labour Code 2006, last amended in 2017

Weekend / Public Holiday Work Compensation

If a worker works on a weekly rest day (Sunday), he is entitled to a premium rate of 70% for every hour worked on Sunday, in addition to the compensatory rest. For work performed on a public holiday, worker is paid a premium rate of 200% of the normal wage rate for every hour worked on a public holiday.

Sources: §231-7 & 232-7 of Labour Code 2006, last amended in 2017

03/13 ANNUAL LEAVE & HOLIDAYS

ILO Conventions

Convention 132 (1970) on Holidays with Pay Convention
Conventions 14 (1921), 47 (1935) and 106 (1957) for weekly rest days.
In addition, for several industries, different Conventions apply.

Luxembourg has ratified the Conventions 14 & 132 only.

Summary of Provisions under ILO Conventions

An employee is entitled to at least 21 consecutive days of paid annual leave. National and religious holidays are not included. Collective agreements must provide at least one day of annual leave on full remuneration for every 17 days on which the employee worked or was entitled to be paid.

A worker should be entitled to paid leave during national and officially recognized public holidays.

Workers should enjoy a rest period of at least twenty-four consecutive hours in every 7-day period, i.e., a week

Regulations on annual leave and holidays:

- Labour Code 2006, last amended in 2017

Paid Vacation / Annual Leave

Every employee, with three uninterrupted months of qualifying service, has the right to annual paid leave. The general duration of annual leave is 25 working days per year. During the first year of employment, an employee may claim 1/12 of the holidays for every month worked. There is also provision of supplementary/additional leave for some workers: 6 days for workers with disabilities and for physically or mentally disabled persons; 3 days for mining workers; and 6 days for those workers whose weekly rest period is less than 44 hours per week. A worker must have worked at least 15 calendar days in a month for that month to be counted as one full month for calculation of annual leave.

The annual leave provision for part-time employees is calculated on pro-rata basis however the annual leave period is not expressed in days rather in hours. An employee who works 20 hours per week is entitled to 100 hours of annual leave while an employee who works 32 hours per week is entitled to 160 hours of annual leave.

Annual leave must be approved by employer at least one month in advance on the request of an employee. An employee may plan his annual leave as he/she wishes however an employer may refuse to grant leave on employee's proposed dates due to operational requirements and due to the justified wishes of other employees. An employer cannot require an employee to take leave without employee's consent and cannot force the worker to take unpaid annual leave.

Splitting of annual leave is allowed under the law however its minimum duration must be 12 consecutive working days (in April 2018, amended to 14 consecutive working days) except in the event of an agreement between the parties. Annual leave should be taken during the year in question. Annual leave may be deferred until 31st December of the following year, on the employee's request, if it consists of leave accumulated during the first year of work for the employer and that could not be taken in full; until 31st March of the following year if the employee was not able to take his leave due to operational reasons or the justified wishes of other employees or if the employee has days of annual leave while going on maternity leave, adoption leave or parental leave; and until after the date of the return to work if the employee has not been able to take annual leave due to sick leave.

Workers who are obliged to take a special leave in order to acquire or perfect their language skills in Luxembourgian will have the 50% of their salaries reimbursed by public funds; the rest of the salary will be paid by their employers.

In compensation for an extension of the reference period from one month to four months, the employees are entitled to extra days of leave as follows: 1.5 days for any

reference period of 1-2 months, 3 days for any reference period of 2-3 months, and 3.5 days for any reference period of 3-4 months.

Sources: §211(6) and 233 of Labour Code 2006, last amended in 2017; Loi du 19 décembre 2014 relative à la mise en oeuvre du paquet d'avenir – première partie Article 3.

Pay on Public Holidays

Luxembourg has ten public holidays of both religious and memorial nature. The Public Holidays are New Year's Day (January 01), Good Friday, Easter (Monday), Labour/May Day (May 01), Ascension Day, Monday of Pentecost, Birthday of the Grand Duke on 23 June, Assumption Day, All Saints' Day, Christmas Day (December 25) and Boxing Day (December 26).

Public holidays in Luxembourg are paid holidays. If a public holiday falls on a Sunday, one additional compensatory leave day is granted to the worker within three months. If needs of the undertaking do not allow taking of this compensatory leave, it should be taken before end of calendar year. For public holidays during November and December, these are to be taken within the following three months.

However, no additional financial compensation is provided for workers who by his/her fault has not worked on the eve of the day following public holiday or who is absent for more than three days during the 25-day period preceding the public holiday without producing justification, even with valid absence reasons.

Sources: §232 of Labour Code 2006, last amended in 2017

Weekly Rest Days

Workers are allowed a daily rest period of at least 11 uninterrupted hours within the period of 24 hours. A worker has the right to a rest period of at least 44 uninterrupted hours within a period of seven days.

The weekly rest day is generally Sunday. If a worker is employed on weekly rest day, employers not only have to provide compensatory rest but also premium pay.

Where the daily working time exceeds 6 hours, workers are entitled to one more (paid or unpaid) rest periods. Young workers are entitled to (paid or unpaid) rest break of at least 30 consecutive minutes after 4 hours of work.

The adult workers are entitled to a daily rest period of 11 consecutive hours within a 24-hour period. The young workers, on the other hand, are entitled to 12 consecutive hours within a 24-hour period.

Sources: §211, 231, and 344 of Labour Code 2006, last amended in 2017

The text in this document was last updated in January 2019. For the most recent and updated text on Employment & Labour Legislation in Luxembourg in French, please refer to: <https://lohnspiegel.lu/>

04/13 EMPLOYMENT SECURITY

ILO Conventions

Convention 158 (1982) on employment termination

Luxembourg has ratified the Convention 158.

Summary of Provisions under ILO Convention

The questions under this section measure the security or even flexibility or precariousness of an employment relationship. Although these are not clearly mentioned in a single convention (severance pay and notice requirement are provided in the Termination of Employment Convention No. 158) however, the best practices in the field require that employees be provided with a written contract of employment; workers on fixed term contracts should not be hired for tasks of permanent nature; a reasonable probation period (ideally lower than or equal to 6 months) may be followed to assess the suitability of an employee; a period of notice must be specified in an employment contract before severing the employment relationship; and workers be paid severance allowance on termination of employment relationship.

A contract of employment may be oral or written however workers should be provided with a written statement of employment at the start of their employment.

Fixed Term Contract workers must not be hired for permanent tasks as it leads to precarious employment.

A reasonable probation period must be allowed to let a worker learn new skills. A newly hired employee may be fired during probation period without any negative consequences.

A reasonable notice period, depending on the length of service of an employee, may be required before an employer may sever the employment relationship.

Employers may be required to pay a severance allowance on termination of employment (due to redundancy or any other reason except for lack of capacity or misconduct).

Regulations on employment security:

- Labour Code 2006, last amended in 2017
- Civil Code 1803, last amended in 2014

Written Employment Particulars

An employment contract must be concluded in written form regardless of whether the contract of employment is for fixed term or indefinite term. A written employment contract must be drawn up and signed between the parties before commencement of employment. The employment contract must be drawn up in two originals, one copy for each party.

A contract of employment must state the following information: identity of the parties; date of commencement of employment; workplace; job description; duration of work (working hours per day or per week); work schedules; remuneration; duration of the paid leave periods; duration of the notice period; duration of the probationary period, if any; reference to the applicable collective bargaining agreement; and reference to the extra-legal pension scheme, if any. Certain provisions must be expressly provided in writing to be enforceable like probationary period and non-compete provisions. Certain additional provisions have to be added for fixed term contracts. A fixed term contract must have the following additional information: ground for entering into fixed term contract; expiry date of a fixed term contract; minimum employment duration when expiry date is not clearly provided; name of the absent employee if fixed term contract is signed for temporary replacement of an absent employee; duration of any probationary period; and any renewal clause.

An employment contract must be validly concluded in any language that is understood by both contracting parties. An essential element of the validity of an employment contract is the consent of the obligated party to enter into a contract. If an employment contract is concluded in a language unknown to employee, such contract may be declared invalid on the basis of lack of consent. Thus, an employment contract may be concluded in any of the official languages (French, German or Luxembourg) or any other language understood by both parties (usually English).

Although the Labour Code requires a written contract, a verbal agreement is not void and an employee may establish the existence of a verbal agreement by all means of evidence. If either of the parties refuses to sign a written contract, other party may terminate the employment contract without any notice or payment of compensation within 30 days of the effective date of such contract. However, such termination should not occur during the first three days of the submission of request to sign a written contract.

Sources: §121-4, 122-2 of Labour Code 2006, last amended in 2017; §1109 of Civil Code 1803, last amended in 2014

Fixed Term Contracts

An employment contract may be concluded for a fixed term or indefinite term. There must be objective and material reasons for signing a fixed term contract. If it is not clearly specified that employment contract is for a fixed term, it is deemed to be a contract of indefinite term. A fixed term contract worker should not be engaged for the permanent tasks of an enterprise. A fixed term contract can be used to replace temporary absent employees (on some type of leave); to meet the seasonal, temporary or urgent increase in the work load; to hire categories of unemployed persons registered with Agence pour le Développement de l'Emploi; and employment intended to promote hiring of certain categories of workers or to engage in training.

A fixed term contract may be renewed twice however some categories of workers (teachers, artists, performers, and athletes) are not subject to restrictions on renewals of fixed term contracts. The maximum length of a fixed term contract including renewals cannot exceed 24 months in duration. Fixed term contract for seasonal work cannot exceed 10 months in a 12-month period. In limited situations, maximum length of a fixed term contract including renewals is 60 months.

Sources: §122 of Labour Code 2006, last amended in 2017

Probation Period

A fixed term employment contract or contract of indefinite term may provide for probationary or trial period clause. The purpose of trial period is to help an employer assess the professional skills of a newly hired employee for the tasks entrusted to him and enabling an employee to determine whether the job suits him and meets his expectations. The parties may agree on not having a probationary clause in the employment contract. The probation/trial period clause must be clearly spelled out in the employment contract and before the commencement of employment.

In general, trial period cannot be less than two weeks nor more than six months. The general maximum length of trial period for an indefinite term contract is 06 months. There are however certain exceptions. The probationary period is 3 months for employees whose education level is less than “certificat d'aptitude technique et professionnelle de l'enseignement secondaire technique” (CATP). The probationary period, on the other hand, is 12 months if the initial gross monthly wage is greater than a certain amount, determined by a decree (€4,154.91). The probation cannot be extended or renewed. However, if the trial period was suspended because of illness or family leave of an employee, the trial period is extended for the duration of such suspension however the total length of extension in this case cannot exceed one month.

Sources: §121-5 of Labour Code 2006, last amended in 2017

Notice Requirement

An employer may terminate the services of an employee by giving a notice in writing. In the notice of termination, employer informs the employee of his decision to terminate the contract specifying the term of notice and the date on which such notice expires. If an employer does not specify that dismissal is subject to notice, it is considered dismissal with immediate effect (summary dismissal). Employer is not required to state the reason for termination in the same letter of dismissal with notice. Within one month of notice of termination, an employee may ask the employer to provide for the reasons leading to dismissal. On receipt of such request by the employee, an employer is required to specify the reasons which led to dismissal. The reasons must be real and serious and should relate to employee's conduct or capacity (personal reasons) or based on the needs and operations of the enterprise (business/economic reasons). If an employer does not provide response to the request of employee to specify reasons for dismissal, such dismissal is considered unfair and employee is entitled to damages.

A fixed term employment contract may be terminated before expiry of its term in the event of misconduct or by the common consent (agreement) of parties. An indefinite term contract may be terminated by either party immediately (summary dismissal) in the event of gross misconduct by the other party; or with notice period if there is a real and serious cause for termination. Both the fixed term and indefinite term contract can be terminated by common consent of the parties.

Termination with notice may arise only in the case of an indefinite term contract and must be based on above mentioned objective and serious reasons. An employer, employing at least 15 persons, must notify the Comite de Conjoncuture of any termination/redundancy taking place on any grounds not linked to employee's aptitude or conduct. The term of notice period varies according to seniority of employees in the company. The notice period is 02 months for less than 5 years of service; 4 months for more than 5 but less than 10 years of service; and 6 months for equal to and more than 10 years of service.

A termination notice takes effect only on the first or fifteenth day of the month. Notice given before the fifteenth of the month will take effect on the fifteenth. Notice given after the fourteenth day takes effect on the first day of the following month. In the event of gross misconduct, an employer may terminate an employment contract without notice in the case of an indefinite term contract and before the end of its term in the case of a fixed term contract. Dismissal is considered unfair and abusive if an employer fails to provide an employee with detailed grounds leading to dismissal; dismissal is not based on serious and genuine reasons related to employee's aptitude (capacity) or attitude (conduct) or arising from operating needs of the enterprise (business or economic reasons); and if the dismissed employee was protected against any dismissal. The prohibited grounds include marital status, pregnancy, maternity leave, race, sexual orientation, religion, political opinion, age, trade union membership and activities, disability and ethnic origin of a worker. The workers enjoying special protection are workers' representatives, pregnant women and women on maternity leave.

An employee may also terminate an employment contract (resignation) after serving a notice to the employer. In the case of gross misconduct on the part of employer, no prior notice is required. Employee must also clearly indicate the reasons that led to his resignation. The notice period in the case of resignation by employee is half the period that an employer has to follow in the case of dismissing an employee. Thus, the resignation notice is 01 month for less than 5 years of service; 2 months for equal to or more than 5 but less than 10 years of service; and 3 months for equal to and greater than 10 years of service.

Employment contract may be terminated during the probationary period without paying any compensation. During the first two weeks of probation period, an employment contract cannot be terminated without the consent of the other party. The notice period during the probation period is calculated based on the length of probationary period set in the employment contract or collective agreement. The notice period during trial period is the same for the both the worker and the employer. The notice period is 2 days for 2 weeks of trial period; 3 days for 3 weeks of trial period; 4 days for 4 weeks of trial period; 15 days for 2 months of trial period; 16 days for 4 months of trial period; 20 days for 5 months of trial period; 24 days for 6 months of trial period; 28 days for 7 months; and 01 month for 8-12 months of trial period. The notice period is counted in calendar days and not in working days. Summary dismissal is possible during the trial period.

The members of staff delegations, health and safety representative and the equality representative, benefit from special protection against dismissal. They cannot be dismissed; cannot be convened to a preliminary interview prior to dismissal, and the essential provisions of their employment contracts cannot be modified. The special protection covers the whole duration of their mandate and expires 6 months at the end of their mandate. A non-elected candidate benefits from protection against dismissal for a period of 3 months after the submission of candidacy.

Sources: §124, 251-1 & 337-1&5 of Labour Code 2006, last amended in 2017; Law of 23 July 2015 on the reform of social dialogue within companies

Severance Pay

Employees are entitled to severance pay (indemnité de départ) depending on the seniority of the worker with the employer. Severance pay is due to a dismissed employee having completed at least 5 years of service. The amount of severance pay ranges between one to twelve months depending on the employee's seniority. There is no severance pay if a worker has worked for less than five years. The severance pay is 01-month salary for at least 5 but less than 10 years of service; 02 months' salary for 10-15 years of service; 03 months' salary for 15-20 years of service; 06 months' salary for 20-25 years of service; 09 months' salary for 25-30 years of service; and 12 months' salary for more than 30 years of service. There is no provision for severance payment if employment contract is terminated for gross misconduct.

Employers with fewer than 20 employees may pay severance pay or pay for longer notice periods. For at least 5 years but less than 10 years of service, severance pay is one month's salary or 05 months' notice; for 10-15 years of service, severance pay is 02 months' salary or 08 months' notice; for 15-20 years of service, severance pay is 03 months' salary or 09 months' notice; for 20-25 years of service, severance pay is 06 months' salary or 12 months' notice; for 25-30 years of service, severance pay is 09 months' salary or 15 months' notice; and for more than 30 years of service, severance pay is 12 months' salary or 18 months' notice.

Severance pay is not due in the following cases: justified dismissal with immediate effect; automatic termination of employment contract due to expiry of contract; resignation with notice by the worker; termination by mutual consent; early retirement and unfair resignation with immediate effect by the worker.

In line with the amendment in the Labour Code through Omnibus Law of April 2018, an employee who has resigned with immediate effect for gross misconduct by the employer is entitled to the same compensation as an employee whose dismissal with immediate effect has been declared abusive by the Labour Court. Such workers are entitled to compensation in lieu of notice and severance pay.

Sources: §124-7 & 9 of Labour Code 2006, last amended in 2017

05/13 FAMILY RESPONSIBILITIES

ILO Conventions

Convention 156: Workers with Family Responsibilities Convention (1981)
Recommendation 165: Workers with Family Responsibilities (1981)

Luxembourg has not ratified the Convention 156.

Summary of Provisions under ILO Convention

Paternity leave is for the new fathers around the time of childbirth and is usually of shorter duration.

Recommendation (No. 165) provides for parental leave as an option available to either parent to take long leave of absence (paid or unpaid) without resigning from work. Parental leave is usually taken once the maternity and paternity leave have been exhausted. For working parents, laws may define the portion of parental leave that has to be compulsorily taken by fathers or mothers.

Flexible Work Option for Parents / Work-Life Balance Recommendation 165 asks the employers to look into the measures for improving general working conditions through flexible work arrangements.

Regulations on family responsibilities:

- Labour Code 2006, last amended in 2017
- Social Security Code 1925, last amended in 2013

Paternity Leave

There is no special entitlement defined as paternity leave. However, employees are entitled to "leave due to extraordinary circumstances" (special leave) which gives them the right to take two days off in the case of birth or adoption of a child. The special leave is paid by the employer and covers 100% of the worker's earnings.

Under the law of 15 December 2017, applicable from January 2018, the paternity leave for fathers has been increased from 2 days to 10 days. These 10 days can be split and taken within the two months of child birth. Similar provision is applicable to parents on adoption of a child under 16 years.

Sources: §233-16 of Labour Code 2006, last amended in 2017

Parental Leave

Parental leave is special leave granted to parents on birth or adoption of a child and can be availed before a child reaches the age of five years. The leave must be taken at least one and a half months before a child reaches the age of five years. Parental leave duration is six months. Parental leave cannot be split, i.e., it must be taken in full and at once (in one go). In agreement with the employer, parental leave may be availed as part time. In that case, the duration of leave is 12 months. Parental leave is individual entitlement and it cannot be transferred from one parent to the other. All employees are eligible for parental leave if they have worked for at least one year with the same employer (for at least 20 hours per week) and if they take care of the child at home.

Both parents cannot take parental leave at the same time. If both parents apply for parental leave, mother has priority. There is also first and second parental leave. The first parental leave is taken by either of the parents following maternity leave. The second parental leave is taken by the other parent until the child is 05 years old. Parental leave duration does not increase in the case of multiple births or single parents. There is also provision for unpaid parental leave of four-month duration if a parent does not take first parental leave and wishes to reserve the second parental leave to the other parent.

Employment relationship is suspended during parental leave; the employer is not required to pay an employee during parental leave of six months (full time leave). During parental leave of 12 months (part time leave), workers are entitled to at least 50% of their earnings. Parents are entitled to a monthly allowance (flat rate) paid by the National Fund for Family Services (CNPF). The parental leave allowance is set at a flat rate of €1,778.31 for a full-time leave and €889.15 for part-time leave regardless of the beneficiary's work before parental leave.

Sources: §234(43-48) of Labour Code 2006, last amended in 2017; §306 of Social Security Code 1925, last amended in 2013

Flexible Work Option for Parents / Work-Life Balance

Flexible working option is not clearly provided for parents.

06/13 MATERNITY & WORK

ILO Conventions

An earlier Convention (103 from 1952) prescribed at least 12 weeks maternity leave, 6 weeks before and 6 weeks after birth. However, a later convention (No. 183 from year 2000) requires that maternity leave be at least 14 weeks of which a period of six weeks compulsory leave should be after childbirth.

Luxembourg has ratified both Conventions 103 & 183.

Summary of Provisions under ILO Convention

During pregnancy and maternity leave, a worker should be entitled to medical and midwife care without any additional cost.

During pregnancy and while breastfeeding, a worker should be exempt from work that might bring harm to you or your baby.

The total maternity leave should last at least 14 weeks.

During maternity leave, a worker's income should amount to at least two thirds of your preceding salary.

During pregnancy and maternity leave, a worker should be protected from dismissal or any other discriminatory treatment.

Workers have the right to return to same or equivalent position after availing maternity leave.

After childbirth and on re-joining work, a worker must be allowed paid nursing breaks for breast-feeding the child.

Regulations on maternity and work:

- Social Security Code 1925, last amended in 2013
- Labour Code 2006, last amended in 2017

Free Medical Care

Insured pregnant workers are entitled to medical assistance, hospitalization, assistance of midwife for childbirth, medicines as well food for new-borns. Cost of dietary products for infants is covered by a lump sum benefit.

The healthcare system is financed by the social security contributions on employer (30 per cent) and employees (30 per cent) and a contribution from state (40 per cent). The state contribution is based on general tax revenues.

Sources: Social Security Code 1925, last amended in 2013; Health Code

No Harmful Work

Employer is under obligation to communicate to any woman employed in a company, among other committees and delegates, the lists of works/jobs in which pregnant or breastfeeding workers may be engaged after a risk assessment and elimination of any possible negative effect on pregnancy and breastfeeding. For activities that are likely to present a specific risk of exposure of pregnant or breastfeeding women to certain harmful agents, processes or working conditions, the employer is held to determine the nature, degree and duration of exposure in order to assess any risk for the safety or health of pregnant women or nursing mother to determine the protective measures that need to be taken.

If results of the risk assessment indicate a risk to pregnant or breastfeeding workers or any negative effect on pregnancy or breastfeeding, employer has to take necessary measures to avoid the risk by adapting the working conditions or working time of these workers during the whole period considered appropriate by the doctor.

If the adaptation in the working conditions or working time is not possible or cannot be justified by justified reasons, employer has to transfer the worker to another job, maintaining her previous wage level. However, in cases, where the transfer is not supported due to justified reasons, the worker is released from her job till the time recommended by the physician. During this term, the worker receives cash benefits from the social security scheme.

Sources: §234(43-48) and 334 of Labour Code 2006, last amended in 2017; Annex-1 of the Labour Code specifying agents and processes with a specific risk of exposure for pregnant and nursing women

Maternity Leave

Female workers are entitled to 16 weeks of maternity leave. Of these 16 weeks, 8 weeks is pre-natal and 8 weeks is post-natal leave. If child birth occurs before expected date of delivery, days of pre-natal leave that are not taken are added to the post-natal leave. On the other hand, if child birth occurs after the expected date of delivery, post-natal leave is extended until the effective date of birth, without reducing the duration of post-natal leave which remains 8 weeks.

Post-natal leave is extended by 4 weeks (total duration: 12 weeks) in case of pre-mature delivery (before 37th week of pregnancy), multiple births, and in case of breastfeeding.

Under the Law of 15 December 2017, applicable from January 2018, the post-natal leave is 12 weeks for all kinds of pregnancies. A woman worker cannot be engaged in 12 weeks after giving birth. The post-natal period is certified by the medical certificate indicating the date of delivery.

Sources: §332 of Labour Code 2006, last amended in 2017

Income

Workers are entitled to financial maternity benefits during the term of maternity leave with the condition that an employee (or self-employed worker) must have been registered with the sickness and maternity insurance for at least 6 months during the 12 months preceding maternity leave.

Workers are entitled to their full salary during the term of maternity leave. Those female individuals who are not entitled to maternity benefits during maternity leave are granted maternity allowance. Maternity benefit cannot be lower than the social minimum wage, i.e., gross amount of EUR1921.03 per month (as of January 2014). Maternity benefit cannot be higher than five times the social minimum wage, i.e., gross amount of EUR9, 605.13 per month (as of January 2014). Maternity benefit cannot be cumulated with other benefits like sickness benefit.

The Maternity leave is funded in the same way as sickness benefits, with funding shared between employers (30 per cent), employees (30 per cent) and the State (40 per cent).

Sources: §332 of Labour Code 2006, last amended in 2017; §25 of Social Security Code 1925, last amended in 2013

Protection from Dismissals

Dismissal with notice (ordinary dismissal) is prohibited during pregnancy (as certified by a medical practitioner through a certificate), during a period of 12 weeks following child birth and during parental leave. Dismissal of a pregnant worker is also prohibited during the probation period.

An employee may be dismissed with notice in the event of cessation of business (economic reason). Summary dismissal (without any notice) is also allowed in the case of serious misconduct by the worker.

Sources: §234(48) & 337(1,2 & 3) of Labour Code 2006, last amended in 2017

Right to Return to Same Position

After availing maternity and parental leave, employee has the right to return to her (or his) former position/job. If former job/position is no longer available, a similar employment corresponding to qualifications with equivalent salary must be provided.

Sources: §234(45 &48) & 332(3) of Labour Code 2006, last amended in 2017

Breastfeeding/ Nursing Breaks

On their return to work after availing maternity leave, breastfeeding employees must be granted breastfeeding breaks on their request. The request for such breaks has to be accompanied by medical certificate certifying that she is breastfeeding. The breastfeeding breaks have to be taken as follows: either two periods of 45 minutes each at the start and end of the employee's normal working day or a single 90 minute period when the working day is divided by a one hour break only and/or the woman cannot breastfeed her child at a location close to her workplace. Breastfeeding breaks must be considered as working time and paid accordingly.

Sources: §331(2) & 336(3) of Labour Code 2006, last amended in 2017

07/13 HEALTH & SAFETY

ILO Conventions

Most ILO OSH Conventions deal with very specific Occupational Safety hazards, such as asbestos and chemicals.

Convention 155 (1981) is the relevant general convention here.

Labour Inspection Convention: 81 (1947)

Luxembourg has ratified both Conventions 81 & 155.

Summary of Provisions under ILO Conventions

The employer, in all fairness, should make sure that the work process is safe.

The employer should provide protective clothing and other necessary safety precautions for free.

Workers should receive training in all work-related safety and health aspects and must have been shown the emergency exits.

In order to ensure workplace safety and health, a central, independent and efficient labour inspection system should be present.

Regulations on health and safety:

- Labour Code 2006, last amended in 2017

Employer Cares

An employer is required to protect the health and safety of workers at the workplace in accordance with the provisions of Labour Code. Workers have the right to the type of work and working environment which is safe and without risk to health.

Employers have to ensure the health and safety of worker by implementing measures including prevention of occupational risks; provision of information and training; and provision of necessary organization and means. Employers are required to undertake a risk assessment at the workplace; take necessary measures to avoid risks; reduce risks at the source of its occurrence; adapting the work to the individual with regard to choice of design, work equipment & production methods, and assess the risks that cannot be avoided.

An employer is under obligation to organize a labour protection system which includes internal supervision of the working environment, including evaluation of the working environment risks; establishment of an organizational structure of the labour protection; and consultation with employees in order to involve them in improvement of labour protection.

Sources: §312(1-7) of Labour Code 2006, last amended in 2017

Free Protection

Personal Protective Equipment is regulated under Labour Code. Employer has to determine the protective measures to be taken and if necessary, the protective equipment to be used. It is the duty of a worker to make correct use of personal protective equipment available to them and, after use, return it to its place. A safety officer has to be consulted about protective equipment to be used.

Personal Protective Equipment must be appropriate for the risks involved, respond to existing conditions at the workplace, take account of ergonomic requirements and worker's health, and fit the worker correctly after necessary adjustment. The conditions for the use of PPE are determined according to the severity of risk, frequency of exposure, characteristics of the workstation of each worker and performance of PPE. PPE is intended for personal use. If a PPE is used by several people, appropriate measure must be taken to avoid any negative health and hygiene effects to different users.

Employer should provide the PPE to workers free of charge and provide relevant services for maintenance, repair and replacement of the PPE. Employer should inform workers of the risks against which the wearing of PPE protects. Employer also has to provide training in wearing of personal protective equipment.

Sources: §312(5), 313(1) & 414(2 & 4) of Labour Code 2006, last amended in 2017; Règlement grand-ducal du 4 novembre 1994 concernant les prescriptions minimales de sécurité et de santé pour l'utilisation par les travailleurs au travail d'équipements de protection individuelle

Training

The Labour Code requires employers to provide training to the workers on OSH related issues.

Training for safety and health at work forms an integral part of the induction of workers. Employers are required to train workers in safe and healthy working practices. An employer is under obligation to arrange for the employee to receive occupational health and safety instructions and training corresponding to the employee's position and occupation before an employee commences work or changes jobs. Such instruction or training is repeated if the work equipment or technology is changed or upgraded. The instruction and training of employees is adapted to changes in working environment risks and repeated periodically.

An employer has to ensure the commencement of additional training for the trusted representatives in the field of labour protection within one month following the election thereof. The additional training for the trusted representatives in the field of labour protection is carried out during working hours. The employer has to cover the expenditures associated with the additional training and training should be conducted during working hours. The labour protection instruction and training should be understandable to employees and suitable for their professional preparedness.

Sources: §312(8) of Labour Code 2006, last amended in 2017

Labour Inspection System

The Ministry of Labour and Employment is the authority responsible for labour and employment affairs. The Inspectorate of Labour and Mines (ITM) is responsible for enforcing legislation relating to working conditions and occupational safety and health. The Labour Inspectors of ITM oversees the implementation of collective bargaining agreements. Labour Inspection system is regulated under the Act of 21 December 2007 on the reform of Inspectorate of Labour and Mines.

08/13 SICK LEAVE & EMPLOYMENT INJURY BENEFIT

ILO Conventions

Convention 102 (1952), Conventions 121 (1964) and 130 (1969) concerning Social Security, Employment Injury Benefits and Medical Care and Sickness Benefits

Luxembourg has ratified the Convention 102, 121 & 130.

Summary of Provisions under ILO Conventions

A worker's rights to work and income should be protected when illness strikes. The national labour law may provide that sickness benefit may not be paid during the first 3 days of your absence. Minimally, a worker should be entitled to an income during first 6 months of illness. This income should be at least 45 per cent of the minimum wage. (Countries are free to opt for a system which guarantees 60 per cent of the last wages during the first 6 months of illness or even during the first year). A worker must be entitled to paid sick leave.

During illness, a worker should be entitled to medical care without any additional cost. Employees and their family members should have access to the necessary minimal medical care at an affordable cost.

During the first 6 months of illness, a worker should not be fired.

If a worker is disabled due to an occupational disease or accident, he/she must receive a higher benefit. In the case of temporary or total incapacity/disability, a worker may at least be provided 50% of his average wage while in the case of fatal injury, the survivors may be provided with 40% of the deceased worker's average wage in periodical payments.

Regulations on sick leave & Employment Injury Benefits:

- Social Security Code 1925, last amended in 2013
- Labour Code 2006, last amended in 2017

Income

A worker is entitled to cash sickness benefits in case of incapacity for work due to non-occupational sickness or accident. Law does not require a qualifying period for cash sickness benefits.

In case of illness or non-work-related accident, employee has to inform his/her employer personally or through an intermediary on the first day of absence about the reasons for being absent from work and submit within the third day of absence a medical certificate from a physician certifying his/her disablement and the estimated duration of his/her sick leave.

An employer has to support the salary payment for all employees in case of sickness or injury. During the period of sick leave, employer has to pay employees an amount corresponding to their full gross monthly wage until the end of month that includes the 77th day of the incapacity for work (meaning that on average, workers are paid salary by the employer for 13 weeks). After this period, employee receives sickness allowance from the Health Insurance Fund. Workers have the right to sick pay for a period of 52 weeks within a period of 104 weeks paid from the Health Insurance Fund. Worker must submit a medical certificate by 10th week indicating his/her continued incapacity for work. The benefit is continued subject to the favourable opinion of Medical Control Service.

Employer can recover some of the sick pay paid from the Employer's Mutual Insurance, a social security institution set up for the purpose. The Employer's Mutual Insurance reimburses up to 80% of the sickness allowance paid by the employer within a 77-day period. After this period, the benefits are paid by the Health Insurance Fund directly.

Sources: §121(6) & 233(6) of Labour Code 2006, last amended in 2017

Medical Care

The health care providers (doctors and hospitals) provide services according to a schedule of fees already established under collective agreements. The insured person is free to choose the service provider (doctor and hospital). No qualifying period is required for access to health care except that the person must be insured. The medical benefits include general and specialist care, hospitalization, laboratory services, maternity care, dental care, appliances, medicine, transportation, therapeutic cure, palliative care, and general & occupational rehabilitation services.

The medical benefits are provided for an unlimited period of time as long as the person is insured. Even after the end of insurance, a person is entitled to medical benefits during the current month and further three months provided that the worker was insured for an uninterrupted period of six months. The right to medical care is extended for six months for illnesses already being treated.

An insured person has to pay all cost of the treatment received and then apply to the sickness fund for a refund from which the amount the concerned person has to pay his/her self is deducted. Cost sharing is allowed although insurance covers most of the cost of medical benefits. The insured person has to co-share 20% of the doctor's visit to home, 12% for consultation, 10% for other outpatient services, €20.93 a day for hospitalization, 5% for dental care fees exceeding €60 a year, and either 20% or 60% of the cost of medicine.

Job Security

In case of illness or non-work-related accident, employee has to inform his/her employer personally or through an intermediary on the first day of absence about the reasons for being absent from work and submit within the third day of absence a medical certificate from physician certifying his/her disablement and the estimated duration of his/her sick leave.

After following this procedure, a worker cannot be dismissed or called to a preliminary meeting even if dismissal is justified and due to a serious fault committed by a worker before absence. The protection from dismissal applies for a specific period (26 weeks from the first day of absence) unless the employee's sickness or injury is due to voluntary participation in a crime or offence. If an employee is terminated during this period, such dismissal is unfair and affected employee may claim damages. However, the law now states that if the Medical Control Service deems an employee fit for work, protection against dismissal will come to an end (after expiration of the period for filing a claim against the Medical Control Service's decision).

Sources: §121(6) of Labour Code 2006, last amended in 2017

Disability / Work Injury Benefit

Work injuries are divided into four categories: (i) permanent total incapacity (ii) permanent partial incapacity (iii) temporary incapacity and (iv) fatal injury leading to death of a worker.

There is no minimum qualifying period for access to benefits under work injuries. Accidents that occur on the way to and from work are covered.

Workers are covered under the Social Security Code, Livre II, 'Assurance Accident'.

In the event of temporary incapacity, the insured person receives full wage for up to 52 weeks over a reference period of 104 weeks, regardless of the cause of sickness (whether it is normal sickness or occupational accident). For the first 77 days of disability, the employer, who is then partly reimbursed by State Health Insurance Office, pays the salary. After this period, the Office replaces the employer in the payment of wages.

In the case of permanent disability or at the end of the first 52 weeks, an annual allowance is paid. The amount of allowance depends on the degree of incapacity and the pay worker was receiving preceding the accident. In the event of permanent disability, the victim benefits from a full annuity equal to 85% of the former wage, limited to the legal salary ceiling. If the degree of incapacity is partial, the annuity is paid according to the percentage of disability. If incapacity is more than 50%, the annuity is increased by 10% per dependent child, up to a maximum of 100%.

In case of fatal injury leading to death of a worker who was less than 65 years old, survivor's pension is paid. The benefit is calculated by multiplying 1.85% of the annual income and the number of years between the date of death of the worker and the date when he would have turned 65. If the deceased was less than 55 years old, the number of years taken for this calculation is always ten.

The spouse or partner is entitled to an annuity of three quarters of the resulting amount, limited to the legal salary ceiling. A child up to the age of 18 (27 if full-time student) receives an allowance of one quarter of this amount. The total of the survivors' benefit cannot exceed the calculated amount.

Funeral allowance is also provided.

Sources: §97-129 of Social Security Code 1925, last amended in 2013

09/13 SOCIAL SECURITY

ILO Conventions

Social Security (minimum standards): Convention 102 (1952). For several benefits somewhat, higher standards have been set in subsequent Conventions

Employment Injury Benefits: Conventions 121 (1964),

Invalidity, Old age and survivors' benefits: Convention 128(1967)

Medical Care and Sickness Benefits: Convention 130 (1969)

Unemployment Benefits: Convention 168 (1988).

Luxembourg has ratified the Convention 102, 121 & 130.

Summary of Provisions under ILO Conventions

In the normal circumstances, the pensionable age may not be set higher than 65 years of age. If retirement age is fixed above 65 years, it should give "due regard to the working ability of elderly persons" and "demographic, economic and social criteria, which shall be demonstrated statistically". Pension can be set as a percentage of the minimum wage or a percentage of the earned wage.

When the breadwinner has died, the spouse and children are entitled to a benefit, expressed as a percentage of the minimum wage, or a percentage of the earned wage. This must at least be 40% of the reference wage.

For a limited period of time, the unemployed has a right to unemployment benefit set as a percentage of the minimum wage or a percentage of the earned wage.

Invalidity benefit is provided when a protected person is unable to engage in a gainful employment, before standard retirement age, due to a non-occupational chronic condition resulting in disease, injury or disability. Invalidity Benefit must at least be 40% of the reference wage.

Regulations on social security:

- Social Security Code 1925, last amended in 2013
- Labour Code 2006, last amended in 2017

Pension Rights

The legal minimum retirement age is 65 years. In order to qualify for an old-age pension, at least 120 months of insurance are also required. If the person does not qualify for a pension at the age of 65, paid contributions are returned to him/her.

There is also an option for early pension, which can be awarded from the age of 57 or 60, depending of the length of insurance period (480 months of mandatory contributions to get early pension at 57 and 480 months of contributions including those periods considered as insurance months for early pension at 60).

Pension consists of two parts: a flat rate plus a proportional supplement. The final amount depends on the duration of insurance and on salary the contributions and it is adjusted according to the cost of living and wage developments.

Sources: §182-285 of Social Security Code 1925, last amended in 2013

Dependents' / Survivors' Benefit

The Law provides for survivors' benefit for surviving dependents (widow or widower, registered partner, orphan, divorced spouse, formerly registered partner). The qualifying conditions require that the deceased person must have been insured for at least 12 months in the three years before death. The surviving spouse must also be married to the deceased worker for at least one year before retirement. Pension is nevertheless due when there is a dependent child or the death was caused by an occupational accident or disease.

The surviving spouse is entitled to 100% of the flat-rate actual or hypothetical old-age pension amount of the insured person, plus 75% of the supplements. A surviving spouse loses entitlement to the benefit if he/she remarries or enters a new partnership: in this case the pension is terminated by a final lump-sum settlement.

Orphan's pension consists of 33% of the flat-rate amount plus 25% of the supplements. Full orphans are entitled to double pension rate. Orphans' pension is awarded till the age of 18 (or 27 if the child is still studying). The total pension cannot exceed the current or projected old age pension.

A lump sum funeral allowance is also provided.

All benefits are adjusted according to the cost of living and wage developments.

Sources: §195-206 & 217-219 of Social Security Code 1925, last amended in 2013

The text in this document was last updated in January 2019. For the most recent and updated text on Employment & Labour Legislation in Luxembourg in French, please refer to: <https://lohnspiegel.lu/>

Unemployment Benefits

Workers are entitled to an unemployment benefit if they meet certain conditions:

- i. must be able to work, aged between 16 and 64 and be resident in Luxembourg
- ii. must not be unemployed for a fault of their own (must have lost the job involuntarily);
- iii. must be registered as a job-seeker and prepared to accept suitable employment commensurate with his/her abilities
- iv. must have been employed for at least 26 weeks (6 months) during the year preceding unemployment.

If the unemployed person is the sole breadwinner for the family, the unemployment benefit is 80% of the previous earnings. If he/she has one or more dependent, rate is increased to 85%. However, the unemployment benefit amount cannot exceed an amount equal to 2.5 times the minimum wage. If unemployment status lasts for more than 6 months in a 12 months period, the benefit cannot exceed an amount equal to twice the minimum wage.

Unemployment benefit is provided for the same length of time as the employment lasted during the 12 months before the unemployment started, but only for a maximum of 12 months over any 2 years period. The duration may be extended if the unemployed person is more than 50 years old.

Under the recently adopted Act on professional (independent) artists and '*intermittents du spectacle*' (subordinate employees in the entertainment industry without steady employment), entitlement to compensation for the periods of inactivity for independent artists involved in the entertainment industry has been limited to 121 days in a period of 365 days. Also, the requirements for entitlement included in the former legislation of 1999 have been replaced with two requirements, which firstly require an affiliation with national social security agency for at least 6 months and secondly, a real activity (engagement) in the national artistic and cultural scene.

Under the Omnibus Law of April 2018, if the employee's resignation is due to the serious misconduct on the part of employer, it is obligatory for the employer to reimburse to the Employment Fund the unemployment benefits paid to the employee for the period covered. However, if the dismissal is justified or the resignation by employee is declared unjustified by the Labour Court, the worker has to reimburse the unemployment benefits paid.

Source: Labour Code, Libre V; <http://www.adem.public.lu/fr/demandeurs-demploi/demander-indemnites-chomage/residents/salaries/index.html>

Invalidity Benefits

To be entitled to invalidity benefit, the insured must be incapable of doing his/her job or another occupation available on the job market and have completed 12 months of insurance in the three years before disability began. The person must also have given up any professional activities.

If invalidity is due to an accident (whether or not at work), the invalidity benefit is provided even if the insured did not complete the 12-month insurance period required.

Invalidity benefit consists of a flat-rate amount and a proportional supplement. The flat-rate amount depends on the statutory reference amount and on the year in which pension entitlement begins; the proportional supplement depends on the earned income and on the year in which pension entitlement begins. In addition, a special flat-rate payment is added for each year left till the age of 65 and a special pro rata supplement is paid for the years till the age of 55.

Disability pension is adjusted according to the cost of living and wage developments. When the insured reaches the age of 65, disability pension is replaced by old age pension.

Sources: §186-194 of Social Security Code 1925, last amended in 2013

10/13 FAIR TREATMENT

ILO Conventions

Convention 111 (1958) lists the discrimination grounds which are forbidden.

Convention 100 (1952) is about Equal Remuneration for Work of Equal Value.

Luxembourg has ratified both Conventions 100 & 111.

Summary of Provisions under ILO Conventions

At workplaces, equal pay for men and women for work of equal value is a must, regardless of marital status. Pay inequality based on race, colour, sex, religion, political opinion, national extraction/place of birth or social origin is also forbidden. A transparent remuneration system and the clear matching of pay and position should be in place and to help prevent wage discrimination.

Not clearly provided in ILO Conventions. However, sexual intimidation/harassment is gender discrimination.

An employer can't discriminate against you on in any aspect of employment (appointment, promotion, training and transfer) on the basis of union membership or participation in union activities, filing of a complaint against an employer, race, colour, sex, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin, temporary absence due to illness, age, trade union membership, disability/HIV-AIDS, or absence from work during maternity leave. (Conventions 111, 156, 158, 159 and 183)

People have the right to work and there can't be occupational segregation on the basis of gender.

Regulations on fair treatment:

- Constitution of Luxembourg 1868, last revised in 2009
- Labour Code 2006, last amended in 2017
- Grand-Ducal Regulation of 10 July 1974 relating to equal pay for men and women
- Penal Code 1879, last amended in 2016

Equal Pay

Under the Grand Ducal Regulation of 10 July 1974 providing equal pay for equal work between men and women, any contract, collective bargaining agreement, rule or regulation of a company providing for different level of remuneration for men and women, is void. The various elements that make up remuneration must be established according to identical standards for both men and women. The categories and criteria for classification and promotion and all other bases for calculating pay, particularly job evaluation systems, must be the same for male and female workers.

Sources: §241-253 of Labour Code 2006, last amended in 2017; Grand-Ducal Regulation of 10 July 1974 relating to equal pay for men and women; *Projet de loi No. 6892 ayant pour objet la mise en œuvre de certaines dispositions du Plan d'égalité des femmes et des hommes* 2015-2018

Sexual Harassment

Sexual harassment is defined as conduct of sexual nature or based on sex by which the perpetrator knowingly affects or should know that he/she affects the dignity of a person in the workplace provided that one of the following conditions is met: the behaviour is inappropriate, abusive and hurtful; the behaviour creates a feeling of intimidation, hostility or humiliation for the victim; and refusing or accepting the behaviour affects the employee's rights in matters of professional training, employment, continuation of employment, professional promotion, remuneration or any other decision relating to employment.

Harassment on the basis of sex and sexual harassment are considered a form of discrimination. Employers are required to take all the preventive measures necessary for the protection of victim's dignity in the workplace. These measures usually include provision of information to employees regarding sexual harassment. Employers are further required to do whatever is necessary to immediately stop any act of sexual harassment that they become aware of.

A victim of sexual harassment must inform the employer of alleged acts of harassment to enable the employer to investigate the matter. An employee may not be subjected to punitive measures for protesting against or refusing an act of sexual harassment or giving evidence of these facts. Punitive measures taken against a victim of sexual harassment including dismissal are void.

A victim of sexual harassment may resign on the basis of sexual harassment (as a gross misconduct on the part of employer). The victim may terminate the employment contract with immediate effect and employer has to pay damages to the employee if the court considers resignation as justified.

Sources: §245 of Labour Code 2006, last amended in 2017

Non-Discrimination

Luxembourg Constitution guarantees equality in law to all Luxembourgers. This Constitutional guarantee is extended to all foreign nationals falling within the scope of Luxembourg law. The Constitution further provides that men and women have equal rights and duties. The State of Luxembourg actively promotes the removal of barriers that might exist in the field of equality between men and women.

Penal Code prohibits discrimination on the grounds of origin, sex, colour, sexual orientation, sex change, family status, age, state of health, disability, moral, political or philosophical opinions, trade union membership, actual or supposed membership of an ethnic group, race or particular region and non-membership of a group or community. In November 2017, the Labour Code was amended to incorporate “nationality” as a ground for prohibiting direct or indirect discrimination.

Labour Code prohibits any direct or indirect discrimination on the grounds of religion or belief, incapacity, age, sexual orientation, or actual or supposed (non) membership of an ethnic group or race. Direct and indirect discrimination on the grounds of sex is prohibited. Harassment and sexual harassment is considered discrimination on the grounds of sex and is thus prohibited. Discrimination on the ground of sex change is considered gender discrimination.

The provisions relating to protection of pregnancy and maternity do not constitute discrimination rather these are a condition for achieving equal treatment between men and women. The non-discrimination provisions are applicable to all workers and employer in relation to access for employment including selection criteria and recruitment conditions including promotion; access to all types and levels of vocational guidance, vocational training, advanced vocational training and retraining, including practical work experience; and employment and working conditions, including dismissals and pay conditions.

Sources: §241-253 of Labour Code 2006, last amended in 2017; §454 of Penal Code 1879, last amended in 2016

Equal Choice of Profession

Women are free to choose the profession they like. No restrictive provisions could be located in the Law. Article 6 of the Constitution provides that "the freedom of commerce and industry, the exercise of liberal professions and of agricultural labour are guaranteed, save for the restrictions established by the law."

Sources: §6 of the Constitution of Luxembourg 1868, last revised in 2009

11/13 MINORS & YOUTH

ILO Conventions

Minimum Age: Convention 138 (1973)

Worst Forms of Child labour: Convention 182 (1999)

Luxembourg has ratified both Conventions 138 & 182.

Summary of Provisions under ILO Conventions

At workplaces, children may not be forced to perform work that could harm their health and hampers their physical and mental development.

All children should be able to attend school. Once this is safeguarded, there is no objection against children performing light jobs between the ages of 12 and 14. The general minimum age is 15 years however developing countries may set this at 14 years. The minimum age for hazardous work, work that is likely to jeopardize the health, safety or morals of young persons, is 18 years. It can also be set at a lower level of 16 years under certain circumstances

Children should not be employed in a work that is likely to harm the health, safety or morals of children. It is considered one of the worst forms of child labour. The minimum age for such hazardous work is 18 years.

Regulations on minors and youth:

- Labour Code 2006, last amended in 2017

Minimum Age for Employment

The minimum age for employment is 15 years. A young person under 15 years of age is not allowed to work except in some cases defined in the law. A child is defined as a person who is under 15 years of age and is still subject to compulsory education however since the Act on Compulsory education sets the compulsory education age from 4-16 years, the effective minimum age for employment is 16 years.

There is a general prohibition of child labour. Employment of children in work of any kind is prohibited as well as participation, for profit or for professional purposes, in audiovisual, cultural, artistic and advertising activities and in the field of fashion. Similar prohibition is applicable to activities that are commercial in nature.

Following types of work is not considered child labour: work in technical and vocational schools; casual domestic service; and participation in some non-profit activities that are commercial in nature or within the usual business, either as a member of a sports club, cultural or artistic, either as part of associational activity.

Regarding above allowed types of work, there are certain conditions that such work should not pose any hazard or risk to the children's health; does not affect their education or training; should not be detrimental to their health or physical, psychological, mental, spiritual, moral or social development and should not involve the economic exploitation of children.

Sources: §341(1) & 342 of Labour Code 2006, last amended in 2017

Minimum Age for Hazardous Work

Young workers are all those workers under the age of 18 years who have entered into an employment contract with an employer in the territory of Luxembourg.

Adolescent workers are workers who are 15-18 years old (more than 15 but less than 18 years old) who are not subject to compulsory education. An assessment of working conditions and working environment must be made before engaging adolescent workers and if such assessment reveals certain risks, measures must be taken to ensure health and safety of adolescent workers. Before signing an employment contract (or at least before work commencement), an employer has to inform an adolescent worker, in writing, about the potential risks present at the workplace and the measures taken with regard to health and safety of young workers.

Young workers should not be engaged in work that is beyond their physical and psychological capacity; work that involves exposure to toxic or carcinogenic substances; work that involves harmful exposure to radiation; poses risks of accidents which young workers, because of lack of experience, sense of security or training, cannot identify or prevent; work in extreme temperatures; and work that involves harmful exposure to physical, biological and chemical agents.

The normal working hours of adolescent workers are 8 hours a day and 40 hours a week. Overtime is generally prohibited for adolescent workers except in cases of force majeure and work necessary for the normal functioning of the enterprise. If a young worker is engaged in overtime work (or work on weekly rest days), he is paid a premium of 100% for overtime hours in addition to his/her usual salary for those hours. Young workers are allowed a consecutive rest period of two days which must include Sunday. Young workers are allowed 25 working days of paid annual leave. Young workers are prohibited to work between 20:00 and 06:00. However, for business and services operating without interruptions, adolescents are allowed to work until 22:00.

Sources: §341-344 of Labour Code 2006, last amended in 2017; Annex-3 of the Labour Code specifying work prohibited to young people due to dangers to their health

12/13 FORCED LABOUR

ILO Conventions

Forced labour: Conventions 29 (1930)

Abolition of Forced labour: Conventions 105 (1957)

Forced labour is the work one has to perform under threat of punishment: forfeit of wages, dismissal, harassment or violence, even corporal punishment. Forced labour means violation of human rights.

Luxembourg has ratified both Conventions 29 & 105.

Summary of Provisions under ILO Conventions

Except for certain cases, forced or compulsory labour (exacted under the threat of punishment and for which you may not have offered voluntarily) is prohibited.

Employers have to allow workers to look for work elsewhere. If a worker is looking for work elsewhere, he/she should not be shortened on wages or threatened with dismissal. (In the reverse cases, international law considers this as forced labour).

If the total working hours, inclusive of overtime exceed 56 hours per week, the worker is considered to be working under inhumane working conditions.

Regulations on forced labour:

- Penal Code 1879, last amended in 2016
- Labour Code 2006, last amended in 2017

Prohibition on Forced and Compulsory Labour

The Penal Code of Luxembourg prohibits all forms of both sex and labour trafficking (for exploitation of labour or services of that person in the form of forced labour or services or compulsory servitude, slavery or practices similar and generally in contravention to human dignity). Trafficking of person to engage them in forced labour is a crime and the perpetrator is punished with imprisonment of three to five years and a fine of €10,000 to 50,000.

Sources: §382(1 & 2) of Penal Code 1879, last amended in 2016

Freedom to Change Jobs and Right to Quit

An employee may also terminate an employment contract (resignation) after serving a notice to the employer. In the case of gross misconduct on the part of employer, no prior notice is required. Employee must also clearly indicate the reasons that led to his resignation. The notice period in the case of resignation by employee is half the period that an employer has to follow in the case of dismissing an employee. Thus, the resignation notice is 01-month for less than 5 years of service; 2 months for equal to or more than 5 but less than 10 years of service; and 3 months for equal to and greater than 10 years of service.

For more information, please refer to the section on employment security.

Inhumane Working Conditions

Overtime is the work which is performed beyond daily and weekly limits of normal hours of work. Overtime work may not be performed for more than two hours per day. Thus, the total working hours during a day cannot exceed 10 hours. The total working hours inclusive of overtime cannot exceed 50 hours per week.

13/13 TRADE UNION

ILO Conventions

Freedom of association and protection of the right to organize:
Convention 87 (1948)

Right to Organize and Collective Bargaining: Convention 98 (1949)

Luxembourg has ratified both Conventions 87 & 98.

Summary of Provisions under ILO Conventions

Freedom of association means freedom to join a trade union. This is part of the fundamental human rights. Employees may not be put at a disadvantage when they are active in the trade union outside working hours. The list of exclusions for sectors of economic activity and workers in an organization should be short.

Trade unions are entitled to negotiate with employers on term of employment without hindrance. The freedom of a trade union to negotiate with employers to try and conclude collective agreements is protected. (The ILO has a special procedure for handling complaints from unions about violation of this principle).

Workers have the right to strike in order to defend their social and economic interests. It is incidental and corollary to the right to organize provided in ILO convention 87.

Regulations on trade unions:

- Constitution of Luxembourg 1868, last revised in 2009
- Labour Code 2006, last amended in 2017

Freedom to Join and Form a Union

Freedom to join a trade union is guaranteed under article 11 of the Luxembourg Constitution. Employees and employers are organized on voluntary basis in trade unions, trade and professional federation. The main aim of the trade unions is to negotiate collective bargaining agreements. Unions also represent employees in proceedings prior to collective redundancies and the proceedings of information in case of transfer of undertaking. Unions can also raise claims on behalf of their members during their employment in the enterprise or after termination of their employment contract. Other than negotiating a collective agreement, unions are involved in negotiating a social plan (about collective redundancies) or an Employment Safeguard Plan.

There is also provision for staff delegates and joint work councils. Only the national representative union (the representative status is granted on fulfilment of various conditions) is allowed to conclude CBAs. A national representative union can either cover all sectors of the economy or a specific sector.

Sources: §11 of the Constitution of Luxembourg 1868, last revised in 2009

Freedom of Collective Bargaining

Collective bargaining is regulated under the Labour Code. A collective bargaining agreement is a contract between trade unions for employees and associations representing employers or companies operating in the same or similar field. Only a national representative union or a trade union representative of an important sector of economy can negotiate a collective agreement. Luxembourg has a chamber system in place. There are three chambers for employers (Chamber of Commerce, Chamber of Trades and the Chamber of Agriculture) and two for employees (Chambre des salariés Luxembourg and the Chamber of Civil Servants and Public Employees).

The most important level of collective bargaining is sectoral or company level (with company level being the most dominant). Sectoral level agreements initially apply to only those companies that belong to an employers' association however they are extended by the government to the entire sector. Sectoral agreements are the norm in banking, insurance and private security sectors. On the other hand, company level agreements prevail in retail sector, paper sector, railway sector and the hotel and restaurant sector.

The Labour Code provides that collective agreements covering all of an organization's staff may allow for the possibility of excluding or envisaging divergent conditions for supervisory or support functions that are not directly related to the execution of the enterprise's core activity.

A collective agreement has to indicate identity of parties; the professional and territorial scope of CBA; date of entry into force, duration and termination time; working conditions to be negotiated between the parties including at least conditions of hiring and dismissal, working hours and rest periods, annual leave, system of wages and salaries by occupational categories. A collective agreement must provide for increase in pay for night work (which cannot be less than 15%); increase in pay for difficult, dangerous and unhealthy work; detailed rules on application of the principle of equal pay for equal work between men and women workers; detailed rules on fighting against moral and sexual harassment and sanctions that can be taken in that framework.

The minimum term of a collective agreement is 6 months while the maximum term is 3 years from the date of its entry into force. A collective agreement may be terminated in whole or in part, prior to the maturity date, giving notice to be determined by the collective labor agreement. This notice is 3 months prior to the date of maturity.

The Economic and Social Council in Luxembourg, established under the 1966 Act, is the permanent consultative forum for country's economic and social guidance. It is also termed as the house of permanent social dialogue. ESC is a tripartite consultative institution with 18 members each from worker and employer groups. Three members are appointed directly by the government. These are the senior officials and experts in the fields of economics, finance, labour and social security. The Council organizes support for national social dialogue, issues opinions on country's economic, social and financial situation in the first quarter of the year, and issue opinions, at the government's request, on issues of general interest.

Sources: §161-166 of Labour Code 2006, last amended in 2017;
<http://www.ces.public.lu/fr.html>

Right to Strike

The Constitution recognizes the right to strike. However, the right to strike is strictly regulated in Luxembourg. Absence of a worker from work because of an occupational strike initiated legally does not constitute a valid or serious reason for dismissal. During the term of a collective agreement, both parties are required to refrain from actions (such as strike or lockout) that may jeopardize its fair execution.

There is a social peace obligation clause in collective agreements. Thus, the parties agree to maintain during the currency of a CBA. In the event of emergence of a collective dispute, it is obligatory to refer such dispute to Office National de

Conciliation (ONC). ONC has three main tasks: solving collective disputes concerning working conditions; settling collective disputes where a collective agreement is not yet reached; and giving notice of demands for the extension of collective bargaining agreements and conventions concerning national or intersectoral social dialogue.

Participation of workers in a lawful strike cannot be used as a ground to terminate employment contract without notice. Thus, striking workers cannot be replaced during a lawful strike.

Sources: §11 of the Constitution of Luxembourg 1868, last revised in 2009; §124(11) & 164(11) of Labour Code 2006, last amended in 2017



DECENT WORK QUESTIONNAIRE

DECENTWORKCHECK.ORG

Check

Decent Work Check Luxembourg is a product of WageIndicator.org
and www.lohnspiegel.lu/home



National Regulation exists



National Regulation does not exist

01/13 Work & Wages

	NR	Yes	No
1. I earn at least the minimum wage announced by the Government		<input type="checkbox"/>	<input type="checkbox"/>
2. I get my pay on a regular basis. (daily, weekly, fortnightly, monthly)		<input type="checkbox"/>	<input type="checkbox"/>

02/13 Compensation

3. Whenever I work overtime, I always get compensation <i>(Overtime rate is fixed at a higher rate)</i>		<input type="checkbox"/>	<input type="checkbox"/>
4. Whenever I work at night, I get higher compensation for night work		<input type="checkbox"/>	<input type="checkbox"/>
5. I get compensatory holiday when I have to work on a public holiday or weekly rest day		<input type="checkbox"/>	<input type="checkbox"/>
6. Whenever I work on a weekly rest day or public holiday, I get due compensation for it		<input type="checkbox"/>	<input type="checkbox"/>

03/13 Annual Leave & Holidays

7. How many weeks of paid annual leave are you entitled to?*		<input type="checkbox"/> 1 <input type="checkbox"/> 2	<input type="checkbox"/> 3 <input type="checkbox"/> 4+
8. I get paid during public (national and religious) holidays		<input type="checkbox"/>	<input type="checkbox"/>
9. I get a weekly rest period of at least one day (i.e. 24 hours) in a week		<input type="checkbox"/>	<input type="checkbox"/>

04/13 Employment Security





10. I was provided a written statement of particulars at the start of my employment		<input type="checkbox"/>	<input type="checkbox"/>
11. My employer does not hire workers on fixed terms contracts for tasks of permanent nature <i>Please tick "NO" if your employer hires contract workers for permanent tasks</i>		<input type="checkbox"/>	<input type="checkbox"/>
12. My probation period is only 06 months		<input type="checkbox"/>	<input type="checkbox"/>
13. My employer gives due notice before terminating my employment contract (or pays in lieu of notice)		<input type="checkbox"/>	<input type="checkbox"/>
14. My employer offers severance pay in case of termination of employment <i>Severance pay is provided under the law. It is dependent on wages of an employee and length of service</i>		<input type="checkbox"/>	<input type="checkbox"/>

05/13 Family Responsibilities





15. My employer provides paid paternity leave <i>This leave is for new fathers/partners and is given at the time of child birth</i>		<input type="checkbox"/>	<input type="checkbox"/>
16. My employer provides (paid or unpaid) parental leave <i>This leave is provided once maternity and paternity leaves have been exhausted. Can be taken by either parent or both the parents consecutively.</i>		<input type="checkbox"/>	<input type="checkbox"/>
17. My work schedule is flexible enough to combine work with family responsibilities <i>Through part-time work or other flex time options</i>		<input type="checkbox"/>	<input type="checkbox"/>

06/13 Maternity & Work





18. I get free ante and post natal medical care		<input type="checkbox"/>	<input type="checkbox"/>
19. During pregnancy, I am exempted from nightshifts (night work) or hazardous work		<input type="checkbox"/>	<input type="checkbox"/>
20. My maternity leave lasts at least 14 weeks		<input type="checkbox"/>	<input type="checkbox"/>

- | | | | | |
|-----|---|---|--------------------------|--------------------------|
| 21. | During my maternity leave, I get at least 2/3rd of my former salary |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 22. | I am protected from dismissal during the period of pregnancy
<i>Workers can still be dismissed for reasons not related to pregnancy like conduct or capacity</i> |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 23. | I have the right to get same/similar job when I return from maternity leave |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 24. | My employer allows nursing breaks, during working hours, to feed my child |  | <input type="checkbox"/> | <input type="checkbox"/> |





07/13 Health & Safety

- | | | | | |
|-----|--|---|--------------------------|--------------------------|
| 25. | My employer makes sure my workplace is safe and healthy |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 26. | My employer provides protective equipment, including protective clothing, free of cost |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 27. | My employer provides adequate health and safety training and ensures that workers know the health hazards and different emergency exits in the case of an accident |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 28. | My workplace is visited by the labour inspector at least once a year to check compliance of labour laws at my workplace |  | <input type="checkbox"/> | <input type="checkbox"/> |









08/13 Sick Leave & Employment Injury Benefits

- | | | | | |
|-----|---|---|--------------------------|--------------------------|
| 29. | My employer provides paid sick leave and I get at least 45% of my wage during the first 6 months of illness |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 30. | I have access to free medical care during my sickness and work injury |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 31. | My employment is secure during the first 6 months of my illness |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 32. | I get adequate compensation in the case of an occupational accident/work injury or occupational disease |  | <input type="checkbox"/> | <input type="checkbox"/> |













09/13 Social Security

- | | | | | |
|-----|---|---|--------------------------|--------------------------|
| 33. | I am entitled to a pension when I turn 60 |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 34. | When I, as a worker, die, my next of kin/survivors get some benefit |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 35. | I get unemployment benefit in case I lose my job |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 36. | I have access to invalidity benefit in case I am unable to earn due to a nonoccupational sickness, injury or accident |  | <input type="checkbox"/> | <input type="checkbox"/> |



10/13 Fair Treatment

- | | | | | |
|-----|--|---|--------------------------|--------------------------|
| 37. | My employer ensure equal pay for equal/similar work (work of equal value) without any discrimination |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 38. | My employer take strict action against sexual harassment at workplace |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 39. | I am treated equally in employment opportunities (appointment,promotion, training and transfer) without discrimination on the basis of:* |  | <input type="checkbox"/> | <input type="checkbox"/> |
| | Sex/Gender |  | <input type="checkbox"/> | <input type="checkbox"/> |
| | Race |  | <input type="checkbox"/> | <input type="checkbox"/> |
| | Colour |  | <input type="checkbox"/> | <input type="checkbox"/> |
| | Religion |  | <input type="checkbox"/> | <input type="checkbox"/> |
| | Political Opinion |  | <input type="checkbox"/> | <input type="checkbox"/> |




* For a composite positive score on question 39, you must have answered "yes" to at least 9 of the choices.

Nationality/Place of Birth		<input type="checkbox"/>	<input type="checkbox"/>
Social Origin/Caste		<input type="checkbox"/>	<input type="checkbox"/>
Family responsibilities/family status		<input type="checkbox"/>	<input type="checkbox"/>
Age		<input type="checkbox"/>	<input type="checkbox"/>
Disability/HIV-AIDS		<input type="checkbox"/>	<input type="checkbox"/>
Trade union membership and related activities		<input type="checkbox"/>	<input type="checkbox"/>
Language		<input type="checkbox"/>	<input type="checkbox"/>
Sexual Orientation (homosexual, bisexual or heterosexual orientation)		<input type="checkbox"/>	<input type="checkbox"/>
Marital Status		<input type="checkbox"/>	<input type="checkbox"/>
Physical Appearance		<input type="checkbox"/>	<input type="checkbox"/>
Pregnancy/Maternity		<input type="checkbox"/>	<input type="checkbox"/>
40 I, as a woman, can work in the same industries as men and have the freedom to choose my profession		<input type="checkbox"/>	<input type="checkbox"/>





11/13 Minors & Youth

41. In my workplace, children under 15 are forbidden		<input type="checkbox"/>	<input type="checkbox"/>
42. In my workplace, children under 18 are forbidden for hazardous work		<input type="checkbox"/>	<input type="checkbox"/>

12/13 Forced Labour

43. I have the right to terminate employment at will or after serving a notice		<input type="checkbox"/>	<input type="checkbox"/>
44. My employer keeps my workplace free of forced or bonded labour		<input type="checkbox"/>	<input type="checkbox"/>
45. My total hours of work, inclusive of overtime, do not exceed 56 hours per week		<input type="checkbox"/>	<input type="checkbox"/>

13/13 Trade Union Rights

46. I have a labour union at my workplace		<input type="checkbox"/>	<input type="checkbox"/>
47. I have the right to join a union at my workplace		<input type="checkbox"/>	<input type="checkbox"/>
48. My employer allows collective bargaining at my workplace		<input type="checkbox"/>	<input type="checkbox"/>
49. I can defend, with my colleagues, our social and economic interests through "strike" without any fear of discrimination		<input type="checkbox"/>	<input type="checkbox"/>

Results

Your personal score tells how much your employer lives up to national legal standards regarding work. To calculate your DecentWorkCheck, you must accumulate 1 point for each YES answer marked. Then compare it with the values in Table below:



is your amount of "YES" accumulated.

Luxembourg scored 47 times "YES" on 49 questions related to International Labour Standards

If your score is between 1 - 18

This score is unbelievable! Does your employer know we live in the 21st century? Ask for your rights. If there is a union active in your company or branch of industry, join it and appeal for help.

If your score is between 19 - 38

As you can see, there is ample room for improvement. But please don't tackle all these issues at once. Start where it hurts most. In the meantime, notify your union or WageIndicator about your situation, so they may help to improve it. When sending an email to us, please be specific about your complaint and if possible name your employer as well. Also, try and find out if your company officially adheres to a code known as Corporate Social Responsibility. If they do, they should live up to at least ILO standards. If they don't adhere to such a code yet, they should. Many companies do by now. You may bring this up.

If your score is between 39 - 49

You're pretty much out of the danger zone. Your employer adheres to most of the existing labour laws and regulations. But there is always room for improvement. So next time you talk to management about your work conditions, prepare well and consult this DecentWorkCheck as a checklist.