

## Publication

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# REFORM OF THE 52-WEEKS-LIMIT

### **NEW LAW ON THE EMPLOYMENT CONTRACT IN CASE OF LONG-TERM ILLNESS**

The entry into force from 1 January 2019 of the law of August 10, 2018 will affect the situation of employees concerned by prolonged illness.

### **INCREASE IN THE RIGHT TO SICKNESS BENEFITS**

Currently, the entitlement to sickness benefits is limited to a total of **52 weeks** over a reference period of 104 weeks. The employee's employment contract automatically ends on the day this limit is reached.

In this context, all periods of work incapacity due to sickness, occupational disease or accident at work during the reference period ending the day before a new incapacity period, are taken into account. At the beginning of each period of incapacity for work, it is thus verified for each calendar day of this incapacity if the limit of 52 weeks is reached.

The new law aims to increase, as from 1<sup>st</sup> January 2019, up to **78 weeks** this limit for the continuation of sickness benefits and of the employment contract.

### **REFERENCE PERIOD IN THE CONTEXT OF THE MAINTENANCE OF SALARY**

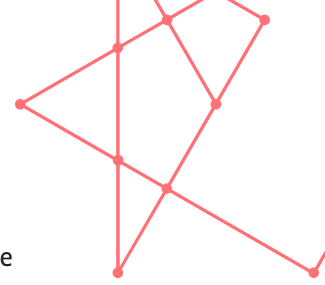
In accordance with the principle of continuation of pay ("Lohnfortzahlung"), the employer is required to pay the salary of an employee who is unable to work until the end of the month in which the 77<sup>th</sup> day of sick leave occurs, calculated on a reference period of **12 successive calendar months**.

During this period, the employer is reimbursed up to 80% by the Mutualité des Employeurs. From the month following the 77th day of sickness over the 12-month reference period, the National health fund (CNS) intervenes and compensates the employee.

From 1<sup>st</sup> January 2019, the reference period for calculating the 77 days of incapacity for work will be extended to **18 successive calendar months**. The resulting reduction in employers' contributions will allow to reduce the average employer contribution rate to the Mutualité from currently 1.95% to 1.85%.

### **PROGRESSIVE RECOVERY OF WORK FOR THERAPEUTIC REASON**

At the same time, the law will introduce, as of January 1<sup>st</sup>, 2019, the progressive



return to work for therapeutic reasons.

On the basis of a medical certificate from the attending physician and with the agreement of both his employer and the CNS, the employee who has been on sick leave for at least 1 month during the 3 months preceding his/her request may resume his professional activity, *“if the return to work and the work performed are recognized as being conducive to improving the insured person's state of health”*. The progressive return to work will be done, where appropriate, with an adapted job as regards working time or tasks.

Unlike the current therapeutic half-time work, where the hours of work are borne by the employer, the right to health benefits from the CNS will be fully maintained during the period of progressive return to work. The progressive return will be fully assimilated to a period of incapacity for work, particularly as regards labor law, and accounted for as such. The beneficiaries of a progressive return are insured against the accident risk.

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While the employers' organizations, including the FEDIL, have never agreed to a generalized increase, without other conditions, from the limit of 52 weeks to 78 weeks, they approve on the other hand of the provisions for the progressive return to work and of the reduction of the average contribution rate to the Mutualité des Employeurs.

For further information, do not hesitate to contact [Philippe Heck](#) or [Ella Gredie](#).

The full text of the law of August 10, 2018 can be consulted in Memorial A 703 published on August 21, 2018 [here](#).

Luxembourg, 21 August 2018