

DWMMC

Dear
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Employment law updates

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Nicolas Tancredi

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Agenda

- Flexible working schedules
- Absences from work
- Holidays carry forward
- Right to be “offline”
- Transition paths

Flexible working schedule

- **4-day work week**

- Possibility (not mandatory)
- For the full-time employees only
- Upon request of the employee
- Written request of the employee
- Subject to the employer's approval
- Agreement formally concluded between the parties

In case of refusal: motivation within one month

Modification of the work rules

Flexible working schedule

- **4-day work week**

- Protection of the employee

- No unfavourable treatment by the employer

- Prohibition to terminate unilaterally the employment relationship of an employee who submits a request (EXCEPT for reasons unrelated to the request)

Flexible working schedule

- **4-day work week**

- 38h/week → 09h30/day for 4 days
- 39h/week → 09h45/day for 4 days
- 40h/week → 10h00/day for 4 days
- No increase in weekly working hours!
- Overtime if 9.30, 9.45, 10 hours/day are exceeded
- Voluntary overtime prohibited on other days of the week

Flexible working schedule

- **4-day work week**
 - Level 2 penalty
 - For the employer or its representative

Flexible working schedule

- **Alternating schedule**

- Possibility (not mandatory)
- For the full-time employees only
- Upon request of the employee (early termination possible)
- Written request of the employee
- Subject to the employer's approval
- Agreement formally concluded between the parties

In case of refusal: motivation within one month

Modification of the work rules

Flexible working schedule

- **Alternating schedule**

- Work pattern organised according to a "cycle"
- Over 2 consecutive weeks
- EXCEPT during the 3rd quarter of the year: cycle may extend over 4 consecutive weeks
- EXCEPT for an unforeseen event: cycle may extend over 4 consecutive weeks
- Benefits for the 1st week are offset by benefits for the 2nd week
- On average must comply with the normal working week

Flexible working schedule

- **Alternating schedule**

- Maximum daily and weekly working time limits may be exceeded up to a maximum of 9h/day and 45h/week
- Provided that the normal weekly working time is respected on average over the agreed cycle

Flexible working schedule

- **Alternating schedule**

	Monday	Tuesday	Wednesday	Thursday	Friday	Total
<i>Week 1</i>	9h	9h	9h	9h	9h	45h
<i>Week 2</i>	8h	8h	3h	8h	4h	31h
<i>Average weekly working hours</i>						38h

	Monday	Tuesday	Wednesday	Thursday	Friday	Total
<i>Week 1</i>	9h	9h	9h	8h	8h	43h
<i>Week 2</i>	9h	8h	8h	8h	/	33h
<i>Average weekly working hours</i>						38h

Flexible working schedule

- **Alternating schedule**

	Monday	Tuesday	Wednesday	Thursday	Friday	Total
<i>Week 1</i>	9h	9h	9h	9h	9h	45h
<i>Week 2</i>	9h	9h	9h	9h	9h	45h
<i>Week 3</i>	9h	9h	9h	9h	9h	45h
<i>Week 4</i>	8h	9h	/	/	/	17h
<i>Average weekly working hours</i>						38h

Flexible working schedule

- **Alternating schedule**

- Protection of the employee

- No unfavourable treatment by the employer

- Prohibition to terminate unilaterally the employment relationship of an employee who submits a request (EXCEPT for reasons unrelated to the request)

Flexible working schedule

- **Alternating schedule**
 - Level 2 penalty
 - For the employer or its representative

Flexible working schedule

- **Right to request a form of employment with more predictable and secure working conditions**
- **Right to request a flexible working arrangement**
 - Providing care for a child (> 12 years)
 - Providing personal care or assistance to a specific member of the household or family who requires considerable care or assistance for a serious medical reason
- **Work from home** (teleworking)
- **Work near home** (co-working spaces)

Absences from work

- **Waiver of the obligation to issue a medical certificate**
 - For the first day of incapacity for work (3 times per calendar year)
 - Notification to the employer of the address where the employee is staying if different from his usual residence known to the employer

- ❑ Association employing less than 50 workers may derogate from this rule

Absences from work

- **Obligation of the employee to report spontaneously to the Medical inspector (*médecin contrôle*)?**
 - Decision of May 23rd, 2022 of the Labour Court of Brussels (NL)
 - See the Bradford index

Absences from work

- **Absence to attend a medical examination or to care for a sick child**
 - Preferably outside working hours
 - If not possible: no entitlement to guaranteed salary (unpaid leave)

Absences from work

- **Entitlement to carer's leave**

- Provide personal care or assistance to a member of the household or family who for a serious medical reason requires considerable care or assistance
- Max. 5 days (consecutive or not)/year

Absences from work

- **To do:**

- Granting of limited or unlimited non-statutory leave
- Remuneration benefits (attendance bonuses)

Holidays carry forward

- Conversion of holiday into sick leave (with guaranteed pay)
 - In the event of illness (private or work-related), accident (private or work-related), maternity or paternity leave, prophylactic leave, adoption leave, foster care leave or parental foster care leave
 - Holiday carry forward of holiday up to 24 months later
 - Into force from January 1st, 2023, but applies for the first time to the 2024 holiday year

Right to be « offline »

- **Right to disconnect**

- Associations with at least 20 employees
- Introduction of a “right” to disconnect
- Foresee the modalities of the right to disconnect and implementation of mechanisms to regulate the use of digital tools

Transition path

- **Possibility of offering or requesting a transitional route**
 - Making the worker available to a “user” during the notice period
 - In the event of redundancy notified by the employer (termination with a period of notice)
 - Via a temporary employment agency or regional employment service

Transition path

- **Possibility of offering or requesting a transitional route**
 - Four-party written agreement
 - Duration of secondment to be determined
 - Employer continues to pay the employee's salary
 - Possibility of early termination
 - If terminated, the user must hire the worker under a permanent contract

Thank you!



Nicolas Tancredi
Avocat associé - Partner

Rue Emile Francqui, 1
1435 Mont-Saint-Guibert
Belgium
T +32 10 43 47 80
D +32 10 43 46 77
M + 32 478 88 00 90
E nt@dwmc.legal
W www.dwmc.legal