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# HR LAW NEWSLETTER

## Changes regarding part-time work effective 1 October 2017

The Belgian Act on Suitable and Flexible Work of 5 March 2017 provided a wide range of flexitime measures to bring labour legislation more into line with the needs of the business world. One part of these measures regards part-time work.

### 1. Part-time work according to a fixed hourly schedule

The part-time work can be organised according to a fixed hourly schedule, which means that the days and hours to be worked are established in advance. In addition, there is also the option to have a fixed part-time work schedule with a fixed number of working hours per week (for example, 20 hours to be worked each week). Alternatively, the part-time work arrangement can be organised according to a cycle (this is the sequence of daily work schedules in a fixed order) distributed over more than one week.

*Example of fixed work schedule of 20 hours*

Day:	Morning:	Afternoon:
Monday	8.30 - 12.00	
Tuesday	8.30 - 12.00	15.00 - 15.30
Wednesday	8.30 - 12.00	
Thursday	8.30 - 12.00	
Friday	8.30 - 12.00	
Total 20 hours		

*Schedule according to a cycle*

Per month	
Week 1	Schedule 1
Week 2	Schedule 2
Week 3	Schedule 3
Week 4	Schedule 4

### Employment contract

The obligation remains to include the following items in the part-time employee's *individual employment contract* no later than when the employment contract begins:

- the part-time work arrangement (the number of working hours per week) and
- the fixed work schedule (the exact days and hours to be worked).

When the part-time work arrangement is distributed over more than one week, then the determination of which schedule is applicable for which week must be clear.

### Work arrangement

Until now, the employer was obligated to include in the work arrangement all the various part-time hourly schedules that existed within the enterprise. This obligation is abolished as from 1 October 2017.

### 2. Part-time work according to a variable hourly schedule

The part-time work can be organised according to a *variable hourly schedule*. The days and hours to be worked are not precisely established in advance, however, the employee is informed in



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advance about the work that they will be required to perform.

### **Employment contract**

The aforementioned obligation to include the number of working hours per week in the part-time employee's *individual employment contract* remains. Since the variable schedule was reported until now in the work arrangement and it was also communicated to the employee, it was usually sufficient to state in the employment contract that it concerned a variable schedule and that it had been included in the work arrangement. Thus, the employment contract did not have to contain all the variable work schedules.

The new regulation entails that the part-time employment contract must state that it concerns a variable schedule established in accordance with the rules set out in the work arrangement.

### **Work arrangement**

As already stated previously, the obligation to include all the various work schedules in the work arrangement is abolished as from 1 October 2017. The government realises that due to the jumble of work schedules it was not very clear for the employees concerned and government services, which is the reason for the proposed abolition.

The new legislation obligates the employer to replace the work schedules with a general framework for the application of the variable part-time work schedules. This framework includes both the limits of the variability as well as the notification to the relevant part-time employees of the variable work schedules.

The framework must state the following:

- The earliest time at which the workdays begin and the latest time at which they end (the daily time frame)
- The days of the week to be worked
- The minimum and maximum number of working hours per day
- The minimum and maximum number of working hours per week
- The manner in which and the time frame within which part-time employees will be informed of their work schedule.

The manner and time frame of notification can be established in consultation between the employer and employees, subject to the following conditions being met:

- It must be a written and dated notification that specifies the work schedule for each employee individually;
- The work schedules must be communicated to the employees in a reliable, appropriate and accessible manner;
- In principle, the notification period is five days, unless the period is reduced to one day in a universally binding Collective Labour Agreement.

### **3. Work schedule notification**

The purpose of this notification is to inform the employees about when they are expected to work and of course, to also allow the inspection authorities to perform their control task.

#### **Fixed work schedules**

The obligation remains to store one copy of the part-time employment contract or a corresponding extract with the work schedules, the identity and signature of the employee and the signature of the employer at the location where the work arrangement can be accessed. The new legislation states that this copy or extract can be stored on paper or in electronic form.

#### **Variable work schedules**

The notification to the employee with a variable schedule is simplified as proposed. Currently, this notification of the individual work schedules occurs at least five calendar days in advance by posting a dated message in the areas of the enterprise where the work arrangement can be accessed.

A Collective Labour Agreement or the work arrangement can specify a different notification procedure for the employees. This alternative notification procedure is not subject to any special formalities, the notification method must only be reliable, appropriate and accessible for the employees. It is also the intention that modern means of communication, such as email and intranet, can be used; we have learned from an enquiry placed with the inspection authorities that a notification via sms or whatsapp message

is also possible. As previously stated, the notification period can be reduced in a Collective Labour Agreement from five days to one day.

Furthermore, from as soon as and as long as this variable work schedule is in force, this message or a copy of it must be available at the location where the work arrangement is stored. It must also be stored for one year.

The double notification that existed, through which prior to the beginning of the workday, the applicable hourly schedule had to be posted along with the notification to the employee, has now been abolished.

#### 4. Differences in the hourly schedule

A record of the differences in the part-time hourly schedule must also be maintained in the future. This record can still be kept on paper, or alternatively, via a time tracking system, to the extent that it can register the following information:

- The employee's identity
- The beginning and end of the workday and the breaks
- The period to which the information relates.

This information must be accessible to the relevant employees, the trade union delegation and the inspection authorities.

#### 5. Commencement / transitional arrangement

The new rules take effect starting 1 October 2017. There is a transitional arrangement for employment contracts containing variable work schedules that were already in place before this date. This transitional arrangement states that the work arrangement must be adjusted by 1 April 2018 (six months).

#### 6. Schematic overview

What must be contained in the employment contract?	
Fixed	Quantity of hours (e.g. 20 hours) The applicable fixed hourly schedule
Fixed according to a cycle	Quantity of hours (e.g. 20 hours) The cyclical schedule
Variable	The average number of working hours (e.g. 20 hours) and the reference period (maximum one trimester, or one year if extended in a Collective Labour Agreement/work arrangement). For example, an average of 20 hours per week over one trimester.

What must be contained in the work arrangement?	
Fixed	No obligation to include the schedules
Fixed according to a cycle	No obligation to include the schedules
Variable	No obligation to include the schedules, however, it must include the general framework that is followed for establishing the variable work schedule: <ul style="list-style-type: none"> <li>▪ <i>The daily time period within which the work is to be performed</i></li> <li>▪ <i>The days on which the work is to be performed</i></li> <li>▪ <i>The minimum and maximum number of working hours per day</i></li> <li>▪ <i>The manner and time frame of notification of the individual schedules</i></li> </ul>

How is the schedule communicated?	
Fixed	<ul style="list-style-type: none"> <li>Part-time employment contract with schedule and signatures is stored at the location of employment</li> <li>Can be on paper or in electronic form</li> </ul>
Fixed according to a cycle	Idem
Variable	<ul style="list-style-type: none"> <li>The employee will be notified in advance in writing by their employer in accordance with the procedures set out in the work arrangement.</li> <li>From as soon as and as long as the work schedule is in force, the notification with the individual work schedule, or a copy of it, either on paper or in electronic form, must be available at the location where the work arrangement can be accessed. It must be stored for one year.</li> </ul>

## 7. To do list

### Check work arrangement:

- Have you provided average working hours for variable part-time hourly schedules for one year in the period for compliance?
- Have you provided the framework and the rules for the variable part-time hourly schedules and how these will be communicated to the employees?
- Have you provided for how the part-time employment contract will be updated/stored?

### Check part-time employment contract:

- Check the existing employment contracts and determine whether these contain a fixed or variable work schedule and still satisfy the new provisions?

### Check time registration system:

- Check whether this system satisfies the requirements of the new legislation?

## 8. Tip

If you are working anyway on changing/updating your work arrangement, then you can also include in the work arrangement the following topics from the Act on Suitable and Flexible Work:

- Minor flexibility
- The system of voluntary overtime
- Occasional telework
- Sliding hours

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Where should the documents be maintained?	
Fixed location of employment	<ul style="list-style-type: none"> <li>A location easily accessible for each employee (see Article 15 of the Act on the Establishment of Work Arrangements)</li> <li>Can be on paper or in electronic form</li> </ul>
Multiple workplaces	Copy at each location of employment. Also applicable for cleaning personnel who have assignments at different client locations.
Mobile workplaces	At the wharf.
Drivers	At the registered office of the enterprise.