WORKING SUNDAYS

**Principle.**

The employee cannot work for more than six days a week because they must have 24 hours of rest per week, called *“repos hebdomadaire*”, or weekly rest. The weekly rest is, in principle, granted on Sundays (Articles L. 3132-1 to L. 3132-3 of the Code of Employment). To this weekly rest, 11 hours of obligatory daily rest are added. Therefore, the employee benefits from a weekly rest period of 35 consecutive hours.

If you are a job-seeker, registered at Pôle Emploi, you can refuse to sign an employment contract that involves working on Sundays without being taken off the job-seekers list (Article L. 3132- 3-1 of the Code of Employment).

**Exemptions to weekly rest.**

An employee may be required to work on Sundays, depending on the activities or establishments concerned. Thus, the obligation to grant a weekly day of rest on Sunday may be waived in the following cases:

1. **Permanent exemptions not subject to specific authorisation**

* The employer can reduce, by half a day, the weekly rest period of maintenance staff in industrial or commercial establishments (eg Paris Opera, RATP, SNCF, private industrial or commercial enterprises ...) when:
* the cleaning work must necessarily be carried out on the collective rest day;
* the weekly rest is allocated to all employees on the same day.
* The employer may grant weekly rest on a rotational basis[[1]](#footnote-2)in establishments whose operation or opening hours are necessitated by the constraints of production, activity or the needs of the public.

**Examples of establishments concerned**: agricultural and food industries, leather, textile and clothing industries, newspaper and information companies, retail establishments (furniture, do-it-yourself), tobacconists, distribution posts for fuel and lubricants for cars, transport and crafts (articles L. 3132-12 and R. 3132-5 of the Code of Employment).

* In food retail businesses, weekly rest can be granted on Sundays from 1 pm. Employees benefit from a rest compensation[[2]](#footnote-3)of one full day on a rotational fortnightly basis.

**Examples of food retailers:** supermarkets, supermarkets, multi-store stores, hypermarkets, general food ...

Supermarkets and hypermarkets with a sales area of ​​more than 400 m2 must grant employees working on Sundays a salary increase of at least 30%. (Article L. 3132-13 of the Code of Employment).

- The security guards and concierges of industrial and commercial establishments benefit from rest compensation when the rest cannot be given on Sunday. (Article L. 3132-11 of the Code of Employment).

1. **Exemptions subject to authorisation or information requirements from the employment inspectorate**

- At establishments in which the employer establishes that the simultaneous rest period on Sundays of all staff would be prejudicial to the public or would compromise the normal functioning of the establishment, it is permitted that rest can be granted to employees on a day other than Sunday, from Sunday noon to Monday noon, or Sunday afternoon with a day of rest compensation on a fortnightly rotational basis, or by rotation to all or part of the employees (Article L. 3132-20 of the Code of Employment);

- In certain industries which only operate for a certain part of the year (seasonal industries), the weekly rest period may be partly deferred provided that each worker enjoys 2 days of rest per month, on Sundays where possible (Article L. 3132-7of the Code of Employment). The employment inspectorate is notified before the start of such work.

**Examples of seasonal activities covered by the Code of Employment**: building work, hotels, restaurants, caterers, rôtisseurs, fruit, vegetable and fish canning factories, brick factories, rope shops and bathing establishments (Articles R. 3132-3 and R. 3132-4 of the Code of Employment);

- In industries that process perishable materials or experiencing an exceptional increase in activity, weekly rest may be suspended on two occasions a month, up to a maximum of six times a year. Hours worked on Sundays are considered overtime. The employment inspectorate is informed before the start of such work (Article L. 3132-5 of the Code of Employment).

**Examples of such activities covered by the Code of Employment**: bakeries, pastry-making, furniture, upholstery, furniture accessories, jewellery, laundry, toy cartons, sweets, business cards, ribbons and perfumes. cf. Article R. 3132-1 of the Code of Employment.

- The weekly rest may be suspended for personnel who are required to carry out certain urgent work (rescue missions, to prevent impending accidents or to repair accidents involving equipment, installations or establishment buildings, articles L. 3132 -4 and R. 3132-7 of the Code of Employment).

1. **Exemptions resulting from a collective agreement, a company agreement or the authorisation of the employment inspectorate**

- Weekly rest can be granted on a day other than Sunday in industrial companies, when the employee is part of a team of temporary replacements, “temps”. A temp team is put in place when staff work in two groups. The temp team has the sole function of replacing the other during the day or days of rest granted to the first group (Article L. 3132-16 of the Code of Employment).

- Industries in which an extended collective agreement or a company agreement provides for the possibility of organising work on a continuous basis for economic reasons may give weekly rest on a rotational basis (Article L. 3132-14 of the Code of Employment).

- In establishments located in tourist areas or commercial zones, weekly rest may be granted on a rotational basis for all or some of the staff (Articles L. 3132-25 and L. 3132-25-1 of the Code of Employment).

Carrying out of Sunday work in these areas triggers compensation for affected employees as set by the collective agreement. Furthermore, only volunteers may be required to work on Sundays.

NIGHT WORK

**Definition of night work**.

Night work should not be confused with evening work. The night work period starts after 9pm and ends no later than 7am (Article L. 3122-2 paragraph 2 of the Code of Employment).

Night work is therefore defined as work carried out over a period of 9 consecutive hours which must include the period between midnight and 5 am (Article L. 3122-2 al.1 of the Code of Employment).

A worker is considered a night worker:

- If, at least twice a week, the usual work schedule includes completing at least 3 hours of the daily working time during the night;

- If, during the period of work being used as reference, the worker performs the legal minimum number of hours of night work (Article L. 3122-5 of the Code of Employment).

Night work must be an exception because it is not the normal way to organise work and must therefore be justified by a need to ensure the continuity of economic activity or to provide services of social use. The employer is obliged to take into account the requirements of protecting the health and safety of workers. (Article L. 3122-1 of the Code of Employment).

Retail establishments within International Tourist Zones (ITZ) that provide goods and services may remain open to the public until midnight. The commencement of the night period can be put back until midnight (instead of 9pm), and work carried out between 9pm and midnight is thus considered as part of the evening work. The night work period, if it begins after 10 pm, constitutes at least 7 consecutive hours including the period between midnight and 7am (article L. 3122-4 of the Code of Employment).

For certain activities (eg editing, the press industry, radio, television, film production and exhibition...) the night period is at least 7 consecutive hours including the period between midnight and 5am (Article L. 3122-3 of the Code of Employment).

The period of night work and the minimum number of hours required to qualify as a night worker may be fixed by a company or establishment agreement or by a collective agreement. In the absence of a collective agreement, the minimum number of hours required in order to qualify as a night worker is 270 hours over a period of 12 consecutive months (Article L. 3122-23 of the Code of Employment).

The employment inspectorate may also authorise a different definition of night work from the legal period set by the Code of Employment when justifiable by the specific characteristics of the activity of the enterprise (Article L. 3122-22 of the Code of Employment).

**Maximum daily and weekly hours of night work permitted.**

The daily working period of a night worker cannot exceed 8 hours (Article L. 3122-6 of the Code of Employment). The weekly working period of the night worker, calculated over a period of 12 consecutive weeks, cannot exceed 40 hours. (Article L. 3122-7 of the Code of Employment)

Authorisations to exceed the daily working hours of night work may be provided for by collective agreement (Article L. 3122-17 of the Code of Employment) or by authorisation of the employment inspectorate in exceptional circumstances after consultation with the staff representatives. (L. 3122-6 of the Code of Employment). The law provides for the possibility of exemptions from the maximum weekly working period of 40 hours up to no more than 44 hours over 12 consecutive weeks (Article L. 3122-18 of the Code of Employment).

**Compensation for night work.**

Night workers receive compensation by way of rest compensation or, where appropriate, wage compensation (Article L. 3122-8 of the Code of Employment). If the daily working hours are exceeded, the employer must provide rest compensation for employees. Rest periods must be at least the equivalent to the number of additional hours worked on top of the maximum daily working hours’ period. The rest must be granted by the employer at the end of the period worked (Article R. 3122-3 of the Code of Employment).

Δ Passing from daytime work to night work constitutes a modification of the employment contract, which requires the employee’s acceptance (Article L. 3122-12 of the Code of Employment).

Δ In the case of pressing family obligations, in particular relating to childcare or the care of a dependent person, the employee may refuse to accept this modification, such a refusal would not constitute a fault or reason for dismissal ( Article L. 3122-12 of the Code of Employment).

Δ Night workers must receive regular individual health check-ups (Article L. 3122-11 of the Code of Employment) and when their health, as determined by the occupational doctor, requires it, the worker can make the transfer to a daytime shift on a temporary or permanent basis (Article L. 3122-14 of the Code of Employment).

Δ Night work is, in principle, prohibited for young people under 18 years of age (Article L. 3163-2 of the Code of Employment), but exceptional exemptions may be granted by the employment inspectorate.

WORK ON PUBLIC HOLIDAYS

**List of public holidays**. The Code of Employment provides a list of 11 days of legal holiday (Article L. 3133-1 of the Code of Employment):

- 1st January;

- Easter Monday ;

- 1st May;

- 8th May;

- Ascension Day;

- Whit Monday;

- 14th July ;

- 15th August;

- 1st November;

- 11th November ; and

- 25th December.

A company/establishment agreement, or a sector-specific agreement, may define the non-working holidays, with the exception of 1st May (Article L. 3133-3-1 of the Code of Employment). In the absence of any collective agreement, the employer determines this list (Article L. 3133-3-2 of the Code of Employment).

**Remuneration of public holidays**. May 1st is the only public paid non-working holiday provided for by the Code of Employment (Article L.3133-4 of the Code of Employment). If the 1st May is worked, the employee receives twice the usual remuneration (Article L. 3133-6 of the Code of Employment).

Concerning the other public holidays, monthly and seasonal workers are only paid for a public holiday if they have at least 3 months of service with the company or establishment (Article L. 3133-3 of the Code of Employment). This does not apply to employees working from home, casual staff or temporary employees.

Employees who work on a public holiday receive their normal remuneration, unless the collective agreement stipulates more advantageous conditions.

Employees on a fixed-term contract (CDD) are paid for non-working public holidays, as long as the other employees of the company also receive this benefit.

Non-worked hours on public holidays cannot be transferred. I.e. the employer cannot require the employee to take non-worked hours on another day of the week.

1. When rest is given on a rotational basis, it is granted on any day of the week,for example, from noon to noon the following day. [↑](#footnote-ref-2)
2. Rest compensation or “*le repos compensateur*” is a rest period granted to compensate for working on a Sunday. [↑](#footnote-ref-3)