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## **Part-Time Work (Prohibition of Unfavourable Treatment)**

## The Law

The Part-Time Work Employees (Prohibition of Unfavourable Treatment) Principal Law of 2002 was put into force on 1 January 2002. A first amendment of the Law was put in force on 16 February 2007, concerning the powers and duties of the Inspectors and a second amendment was put in force on 30 February 2008, regarding part-time employments on a casual basis. The Principal Law along with its Amendments shall be cited in this Guide as the Law. The purpose of this Law is to:

- eliminate discrimination against part-time employees and improve the quality of part-time work
- promote the development of part time work on a voluntary basis and contribute to the flexible organisation of the working time, taking into account the needs of both employers and employees.

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## Who is covered

The Law applies to all part-time employees except to:

- part-time employees who work on a casual basis. A part time employee who works on a casual basis is defined as someone whose
  - (i) total period of employment, in the same employer, does not exceed 8 weeks per calendar year, with a maximum of continuous period in each case, 3 weeks, or
  - (ii) total period of continuous employment does not exceed 5 hours per week.
- full time employees, affected by partial unemployment, that is to say, by a collective and temporary reduction of their normal working hours for financial, technical or structural reasons.

## Part-time employees

Part-time employee means an employee whose normal hours of work, calculated on a weekly basis or on average over a period of employment of up to one year, are less than the normal hours of work of a comparable full-time employee, who is employed by the same establishment or undertaking.

## Comparable full-time employee

Comparable full-time employee means a full-time employee who:

- works in the same establishment or undertaking as the part-time employee
- has the same kind of employment contract or relationship as the part-time employee
- carries out the same or similar duties to those carried out by the part-time employee, having regard to other considerations such as seniority, qualifications and specialisation.

Where there is no comparable full-time employee in the same establishment or undertaking, the comparison shall be made by reference to the applicable collective agreement or, where there is no applicable collective agreement, in accordance with national law, other collective agreements or practice.

### **Principle of non-discrimination**

In respect of employment terms and conditions, a part-time employee shall not be treated in a less favourable manner than the comparable full-time employee solely because he/she works part time, unless different treatment is justified on objective grounds. Where appropriate, the principle of pro rata temporis shall apply.

### **Principle of pro rata temporis**

Principle of pro rata temporis means that where a comparable full-time employee is entitled to a specific remuneration or other benefit, the part-time employee shall be entitled to such remuneration or other benefit, which is directly proportional to the number of hours he/she works each week, compared to the weekly number of working hours of the comparable full-time employee.

### **Conditions for access to particular conditions of employment**

Where justified on objective grounds, the Minister of Labour and Social Insurance, and/or the social partners (employers and employees associations), may, where appropriate, make the access of part-time employees to particular conditions of employment, subject to the period of service, the length of employment and the employee's qualifications based on which his/her earnings are determined. The conditions for access of part-time employees to particular conditions of employment should be reviewed periodically, having regard to the principle of non-discrimination.

### **Rights of part-time employees**

Every part-time employee shall be entitled to equal terms and conditions of employment and to equal treatment and shall enjoy the same level of protection as that provided to a comparable full-time employee, in particular with regard to:

- salary and benefits
- the social insurance scheme
- the protection of maternity
- annual leave with pay and paid public holidays
- parental leave
- sick leave
- the termination of employment.

A part-time employee shall also be entitled to equal treatment and enjoy the same level of protection as that provided to a full-time employee in relation to:

- the right to join and participate in the activities of a union, the right to collective bargaining and the right to act as an employees' representative
- health and safety at work
- the protection from unfavourable discrimination in employment and occupation.

### **Free choice of the type of work**

Each employer shall ensure that the transfer of an employee from full-time to part-time employment, or the opposite, in the event of any vacancies in the undertaking is done on a voluntary basis. An employee's refusal to be transferred from part-time employment to full-time employment, or the opposite, should not in itself constitute a reason for the termination of his/her employment (without prejudice to the termination of the employee's employment in accordance with relevant legislation, collective agreements and practice, for other reasons such as may arise from the operational requirements of the undertaking concerned).

### **Employer's obligations**

An employer shall, as far as possible, give consideration the following:

- requests of employees to transfer from full-time to part-time employment, or the opposite, for an increase in their working time should the opportunity arise
- the provision of timely information on any vacancies of part-time or full-time employment, available in the undertaking
- measures to facilitate access to part-time employment at all levels of the undertaking, including skilled and managerial positions
- measures to facilitate access of part-time employees to vocational training
- the provision of appropriate information, to the organisations representing employees, about part time employees of the undertaking.

### **Opportunities for part-time employment**

The Ministry of Labour and Social Insurance may, after consultation with social partners, identify, deal with and, where necessary, eliminate obstacles of legal or administrative nature which may limit the opportunities for part-time employment. Social partners, acting in accordance with the procedures set out in collective agreements, shall identify, deal with and, where necessary, eliminate obstacles of a legal or administrative nature, which may limit the opportunities for part-time employment.

Within three months from the date of enforcement of this Law, the Ministry of Labour and Social Insurance shall invite the employers and employees associations to examine, within a specified period of time, the existing collective agreements with a view to revising and/or

adjusting such agreements in order to remove any provisions which restrict free choice and/or opportunities for part-time employment.

## **Inspectors**

The Minister may appoint Inspectors and/or other officers for the effective application of this Law. An amendment of the Law provides for the powers and duties of the Inspectors.

Anyone obstructing an Inspector in exercising his/her duties, is liable to an imprisonment not exceeding 3 months or to a fine not exceeding €5.125, or both penalties.

## **Competent court and penalties**

The Labour Disputes Court is the competent court for the resolution of any dispute (of civil nature), arising from the application of the provisions of the Law. Any employer who breaches any provision of this Law shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding the amount of €3.417.

## **Regulations**

The Council of Ministers may issue regulations for a more effective application of the provisions of the Law. The Regulations may in particular prescribe:

- the categories of employees working on a casual basis
- the duties or powers of inspectors or other officers appointed in order to ensure an efficient application of the Law.